



City Hall
208 North First Avenue
Alpena, Michigan 49707
www.alpena.mi.us

Planning & Development

AGENDA

City of Alpena Planning Commission

Regular Meeting

Tuesday, May 11, 2021 @ 7:00 p.m.

Alpena, Michigan

This meeting will be held virtually.

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CALL TO ORDER:

ROLL CALL:

PLEDGE OF ALLEGIANCE:

APPROVAL OF AGENDA:

APPROVAL OF MINUTES: Meeting March 9, 2021

PUBLIC HEARING AND COMMISSION ACTION:

BUSINESS:

1. Review proposed zoning ordinance amendments.
2. Review draft blight ordinance.

COMMUNICATIONS:

REPORTS:

CALL TO PUBLIC:

MEMBERS' COMMENTS:

ADJOURNMENT:



MINUTES
City of Alpena Planning Commission
Regular Meeting (Virtual)
March 9, 2021
Alpena, Michigan

CALL TO ORDER:

The regular meeting of the Planning Commission was called to order at 7:02 p.m. by Randy Boboltz, Planning Commission Vice-Chair.

ROLL CALL: PLANNING COMMISSION

PRESENT: Kirschner, Bauer, Boboltz, Kostelic, Wojda, Gilmore, Werda

ABSENT: Sabourin, VanWagoner

STAFF: Andrea Kares (Planning & Development Director), Kathleen Sauve (Recording Secretary).

PLEDGE OF ALLEGIANCE:

Pledge of Allegiance was recited.

APPROVAL OF AGENDA:

Agenda was approved as printed.

APPROVAL OF MINUTES:

Joint Planning Commission/CIP meeting February 17, 2021, minutes were approved as printed.

PUBLIC HEARING AND COMMISSION ACTION:

P.C. Case #21-SU-01. Taishaw M. Thomas has requested a special use permit to allow for a secondary dwelling unit at 315 South Ninth Avenue. The property is in the R-2 zoning district. Secondary Dwelling Units require a special use permit in this zoning district.

Nobody was present from the public or to represent the applicant. Boboltz suggested we go directly into deliberation on this issue. Everyone is in agreement that no formal reading is required and would like to go directly to deliberation.

Motion made by Gilmore to approve the special use permit. ***Seconded by Wojda.***

Ayes: Wojda, Kirschner, Boboltz, Gilmore, Bauer, Kostelic, Werda

Nays: None

Absent: Vanwagoner, Sabourin

Motion approved by a vote of 7-0.

Member Update: Kares announces that moving forward, all meetings will be held in person. All meetings will still be recorded and on GoTo Meetings, although it is expected that all members will attend in person if able and comfortable doing so. Wojda questions if members are permitted to appear virtually or if they have to be in person for quorum purposes. Kares states that it is okay to appear in person or online.

Member comments: Boboltz questions what is going on with the progress of the new microbrewery downtown. Donald Gilmet (retired City of Alpena Building Official) says he thinks they just slowed down in light of occupancy restrictions and Covid. He said the last time he was there they had all the drywall up and finished and their next inspection is really just going to be a final inspection. He thinks after restrictions get loosened up some more, they will likely push forward with hopes of a summer opening. The name of the brewery is Inspiration Brewery.

Gilmore says he is happy to see that the fire damaged home on the corner of Washington and Lewis is finally starting to be demolished. Kares says it should be demolished sometime in the next week.

ADJOURNMENT: There being no further business or comments, the meeting was adjourned at 7:14 p.m., by Boboltz, Planning Commission Vice-Chair.

Steve Gilmore, Secretary



Northeast Michigan Council of Governments

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MEMORANDUM

TO: City of Alpena Planning Commission
FROM: Denise Cline, Deputy Director/Chief Planner, NEMCOG
DATE: 4/30/21
RE: Proposed Zoning Amendments and Blight Ordinance

Hello! Included in your packet is a draft amending ordinance which contains proposed zoning amendments for your discussion. I have provided further explanation on each topic below:

1. Definitions (Section 2.1)

There are several changes to proposed definitions included in the amending ordinance.

- a. **Inoperable Motor Vehicle:** See #3 below.
- b. **Secondary Dwelling Unit:** The ordinance allows these structures and has a specific section which regulates them, but there is no definition, so a definition is included in the draft. In fact, most communities use the term “Accessory Dwelling Unit” – this ordinance could be changed to use that more common term as well.
- c. **Adult Foster Care:** See #4 below.
- d. **MDNRE:** This ordinance was written when the DNR and the (then) DEQ were combined into one department. They have since been separated again and the DEQ renamed “EGLE.” Therefore, the name MDNRE should be replaced throughout the ordinance. In addition to including a definition of EGLE, the phrase “any subsequently named agency” is included just in case the State of Michigan changes the name yet again.
- e. **Human:** The definitions under “Sexually Oriented Business” use the phrases “Specified Sexual Activities” or “Specified Anatomical Areas” to define all of the Sexually Oriented Businesses. These two definitions use the word “human.” However, there are some sexually-oriented businesses which do not use actual humans in their business and, instead, use robots and other digital likenesses. In order for these business not to be able to circumvent being defined as a Sexually Oriented Business, the definition of human needs to be amended to include non-living, human-like devices.
- f. **Escort Agency:** This definition was missing but the phrase is used under Sexually Oriented Business.

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- g. **Telecommunications Towers & Facilities Definitions:** The definition of “Antenna Array” has additional text stating “or any other antenna configuration” – this is due to the fact that new antenna configurations are under development – some of which are ground-mounted antenna. The definition for “Wireless Communication Facility” is also being changed to include ground-mounted antenna facilities. In addition, the ordinance should address “Small Cell Wireless Facilities” which are defined by state law. See #6 below for additional discussion.

2. Medical Marihuana Facilities (Section 7.41)

The City Council has directed staff to rewrite the City of Alpena Marihuana Licensing Ordinance to remove the cap on Provisioning Centers. As part of this process, a few other clarifications were needed in the Zoning Ordinance. First, the Zoning Ordinance limits where facilities can be located in relation to other uses. The ordinance uses the phrase “youth facilities,” however this phrase is problematic because the term is not defined making it difficult to determine what is considered a youth facility. The term “boys and girls club” is in parentheses, and the City Council has determined that the provision was specifically meant only for the Boys and Girls Club of Alpena and not other types of youth facilities (i.e. dance center, etc.). Therefore the phrase “youth facility” has been struck.

In addition, the standards that city staff utilized to score the competitive provisioning center applications are being included as standards in the licensing ordinance. Each provisioning center will need to provide documentation showing that they meet the standards that the original applicants were scored on. The Council felt it best to move the former standards that dealt specifically with aspects of the property to the Zoning Ordinance which are reviewed during site plan review by the Planning Commission. So, these standards are now included under Section 7.41 subsection B.

3. Sale/Storage of Vehicles (Section 3.12 Accessory Uses)

Storage of vehicles has been an issue which has been raised – specifically this refers to vehicles used for demolition derbies. In order to address this, proposed language to address this has been added to subsection B under Section 3.12 (Accessory Uses). In addition, while the ordinance uses the term “inoperable motor vehicle,” the term was not actually defined, so a draft definition has been provided.

4. Adult Foster Care (Section 5.26 Use Matrix)

The aging population is resulting in more and more adult foster care facilities across the country. The current Alpena Zoning Ordinance does not adequately address the range of different types of Adult Foster Care facilities. Therefore, definitions from the Adult Foster Care Licensing Act are included. In addition, these types of facilities should be included in the Table of Permitted and Special Land Uses – the Planning Commission should have a discussion about which districts these would be allowed in. The current adult foster care facilities which are registered with LARA are located in the R-2 District (Adult Foster Care Small Group Homes) and

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RM-2 (Adult Foster Care Large Group Homes). I did find one group home from 3 to 12 residents located in the R-2 District as well (which is both a Small Group and Large Group Home).

5. Natural Gardens (Section 3.34)

The Planning Commission should discuss whether or not to allow “Natural Gardens” which contains unmown vegetation for the purpose of providing a natural ecosystem for insects and wildlife. Some city residents have noted a desire to do this, but Chapter 102, Article III of the code of ordinances (Noxious Vegetation) prohibits vegetation over 8” in height. Making this change would provide property owners a small area in which to have a natural garden.

6. Telecommunications Facilities (Section 5.26 (Use Matrix) & Section 7.37)

The current Zoning Ordinance addresses towers over 75’, antenna array attached to a monopole 75’ or less, and amateur radio antenna, however it does not address a ground mounted antenna array or small cell wireless facilities. See below for photos of each:

Example of Ground Mounted Antenna (Earth Stations or Ground Stations)



Example of Small Cell Wireless Facilities



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Each of the above should be addressed in the Table of Uses. Small cell wireless facilities are defined by Public Act 365 of 2018 (Small Cell Communications Facilities Deployment Act), but the ground mounted antennas above do not fall under this definition because they occupy too large of an area. PA 365 designates small cells that are in the public right of way as exempt from zoning. However, the Zoning Ordinance should address how approval takes place for small cells that are NOT exempt from zoning. PA 365 also specifies the process by which approval shall take place within a community (subsection J in the amendment). So, the Planning Commission should discuss which districts these are allowed in. In addition, subsection K contains language which contains necessary exemption language for single-use towers and masts (according to federal regulations).

7. Downtown Overlay District (Section 5.13)

It has been noted in the past that the design standards in the Downtown Overlay District might be too stringent and do not allow enough creativity in design. In fact, the MEDC RRC publication “Enabling Better Places – User’s Guide to Zoning Reform” recommends eliminating architectural treatment requirements and, instead, focusing on 100% lot coverage, minimum façade height, maximum setbacks, sidewalk-facing entries, clear and non-reflective glazing, restricting blank walls, and signage standards. Alpena already incorporates these other recommendations, so I have recommended striking the design standards in subsection B.10.

8. Blight Ordinance

Included separately from the zoning amendments is a draft blight ordinance which Council requested be drafted. During the initial round of marihuana provisioning center applications, there was a criteria that applicants submit documentation on how they would address blighted property. No definition of blight exists in the city code, so the Council felt that a blight ordinance should be considered which applied to all city property (not just provisioning centers). The blight standard was removed from the provisioning center standards and a blight ordinance was drafted.

Suggested changes are in red or in strikeouts. Notes to the Planning Commission are in blue italics.

City of Alpena Ordinance No. ____ of 2021

An ordinance to amend the City of Alpena Zoning Ordinance Article 2 (Construction of Language and Definitions), Article 3 (General Provisions), Article 5 (District Regulations), and Article 7 (Supplemental Development Regulations).

City of Alpena, Alpena County, Michigan ordains:

SECTION 1: AMENDMENT TO THE CITY OF ALPENA ZONING ORDINANCE

That the City of Alpena Zoning Ordinance, Article 2 (Construction of Language and Definitions) is hereby amended to read as follows:

Section 2.1 Definitions

ADULT FOSTER CARE: ~~See State-Licensed Residential Facility~~

A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.

A. The following additional definitions shall apply in the application of this Ordinance.

1. **ADULT DAY CARE FACILITY**: A facility receiving adults for care for periods of less than twenty four (24) hours in a day, for more than two (2) weeks in any calendar year. Care for persons related by blood or marriage to a member of the family occupying the dwelling is excluded from this definition.
2. **ADULT FOSTER CARE FAMILY HOME**: A private residence with the approved capacity to receive six (6) or fewer adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
3. **ADULT FOSTER CARE SMALL GROUP HOME (7-12 ADULTS)**: An adult foster care facility with the approved capacity to receive at least seven (7) but not more than twelve (12) adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.
4. **ADULT FOSTER CARE LARGE GROUP HOME (13-20 ADULTS)**: A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.
5. **ADULT FOSTER CARE CONGREGATE FACILITY (MORE THAN 20 ADULTS)**: An adult foster care large group home with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

6. **STATE-LICENSED RESIDENTIAL FACILITY (6 OR LESS):** A structure constructed for residential purposes that is licensed by the State pursuant to **1979 PA 218 (Adult Foster Care Licensing Act)**, as amended, being Sections 400.701 to 400.737 of the Michigan Compiled Laws, or **1973 PA 116 (Child Care Organizations)**, as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services or care for six (6) or fewer individuals under twenty-four (24) hour supervision for persons in need of that supervision or care. **The licensee is NOT a member of the household nor is an occupant of the residence.**

B. An adult foster care facility does not include the following:

1. A nursing home licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260.
2. A home for the aged licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260.
3. A hospital licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260.
4. A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of community health under the **Mental Health Code, 1974 PA 258**, MCL 330.1001 to 330.2106.
5. A county infirmary operated by a county department of social services or family independence agency under Section 55 of the **Social Welfare Act, 1939 PA 280**, MCL 400.55.
6. A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under **1973 PA 116**, MCL 722.111 to 722.128, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:
 - a. Two (2), if the total number of residents is ten (10) or fewer.
 - b. Three (3), if the total number of residents is not less than eleven (11) and not more than fourteen (14).
 - c. Four (4), if the total number of residents is not less than fifteen (15) and not more than twenty (20).
 - d. Five (5), if the total number of residents is twenty-one (21) or more.
7. A foster family home licensed or approved under **1973 PA 116**, MCL 722.111 to 722.128, that has a person who is eighteen (18) years of age or older placed in the foster family home under section 5(7) of **1973 PA 116**, MCL 722.115.
8. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional

institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

9. A facility created by the **Michigan Veteran's Facility Act 1885 PA 152**, MCL 36.1 to 36.12.
10. An area excluded from the definition of adult foster care facility under Section 17(3) of the **Continuing Care Community Disclosure Act, 2014 PA 448**, MCL 554.917
11. A private residence with the capacity to receive at least one (1) but not more than four (4) adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting.

INOPERABLE MOTOR VEHICLE: An inoperable motor vehicle is one that is not currently registered and licensed for operation upon the highways of the state or is not otherwise operable because of missing, damaged, or broken equipment.

MDNRE: Michigan Department of Natural Resources ~~and the Environment~~ or any subsequently named agency.

(Replace all instances of MDNRE with EGLE in Sections 3.21, 3.33, 5.20.C)

EGLE: Michigan Department of the Environment, Great Lakes and Energy or any subsequently named agency (such as the Department of Environmental Quality).

(Add to Sexually Oriented Businesses definitions)

HUMAN: Besides the customary meaning, the term "human" shall also include non-living anthropomorphic (resembling human) devices, both physical and digital.

ESCORT AGENCY: Any business, agency, or person who, for a fee, commission, hire, reward, or profit, furnishes or offers to furnish names of persons, or who introduces, furnishes, or arranges for persons, who may accompany other persons to or about social affairs, entertainments, or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

SECONDARY DWELLING UNIT: A secondary residential dwelling unit located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Secondary dwelling units shall be developed in accordance with the standards set forth in Section 7.32 and only in those zoning districts where the use is listed.

TELECOMMUNICATION TOWERS AND FACILITIES DEFINITIONS:

1. **ANTENNA ARRAY:** An Antenna Array is one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel), ~~and parabolic antenna (disc)~~, **or any other antenna configuration**. The Antenna Array does not include the Support Structure.
8. **SMALL CELL WIRELESS FACILITY:** A wireless facility that meets both of the following requirements:

- a. Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six (6) cubic feet.
- b. All other wireless equipment associated with the facility is cumulatively not more than twenty-five (25) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

A small cell wireless facility is not considered an accessory building or accessory structure.

11. **WIRELESS COMMUNICATION FACILITY**: A Wireless Communication Facility is any facility for the transmission and/or reception of wireless communications services, usually consisting of an Antenna Array, connection cables, an Equipment Facility and a Support Structure. A Wireless Communication Facility also includes an Antenna Array attached to an existing building or structure (Attachment Structure) or mounted to the ground.

That the City of Alpena Zoning Ordinance, Article 7 (Supplemental Development Regulations) is hereby amended to read as follows:

Section 7.41 Medical Marihuana Facilities

A. Standards:

1. Medical Marihuana Facilities shall not be located within one thousand (1,000) feet of any school.
2. Medical Marihuana Facilities shall not be located within two hundred fifty (250) feet of any place of worship, child care centers, addiction clinics and treatment facilities, youth facilities (~~boys and girls club~~) the Boys and Girls Club of Alpena, or McRae, Bay View, or Water Tower Parks or be directly adjacent to Starlite Beach Park or Mich-e-ke-wis Park.
3. Medical Marihuana Facilities shall not be located in the district or area known as the "Downtown Development Authority."
4. Medical Marihuana Facilities shall comply with the City of Alpena Ordinance No. 20-454 (Medical Marihuana Facilities).

- B. **Submittal Requirements** (in addition to submittal requirements in **Article 6**): Applicant shall submit the documentation contained in 1-3 below. The Planning Commission shall evaluate the applicant's submittal as part of the site plan review process.

1. Applicant shall submit a plan which details economic benefits to the City by way of improvements to real property.
2. If an existing building is proposed to be utilized, applicant shall commit to physical improvements to exterior of existing building or structure.

3. Applicant shall submit a maintenance plan that provides for upkeep of property, including exterior or right-of-way.

That the City of Alpena Zoning Ordinance Article 3 (General Provisions) is hereby amended to read as follows:

Section 3.12 Accessory Uses

B. Sale/Storage of Vehicles:

1. A resident of a dwelling unit may have not more than two (2) motorized vehicles for sale on the site of such dwelling unit at any time and in no instance shall vacant residential lots or parcels be utilized for the sale of vehicles.
2. A resident may repair vehicles of the resident on the property of the resident's dwelling unit; however, in no instance shall a resident repair the vehicles of other than a resident of the dwelling unit on said property.
3. In no instance shall vehicles for sale be displayed in a front yard other than on the driveway portion of such yard.
4. No more than one (1) inoperable vehicle may be stored outside the dwelling or the garage of the dwelling. Any such inoperable vehicle stored outside the dwelling or garage of the dwelling shall not be stored in the front yard and must be properly covered.
5. Vehicles utilized for demolition derbies shall not be stored or repaired in a front or side yard and shall only be stored or repaired in a rear yard (which is screened from view of neighboring property or rights-of-way) or in an accessory building or attached garage. Vehicles utilized for demolition derbies shall only be stored/repared on a solid foundation made of concrete or a similar impermeable material (not soil or grass).

Add Section 3.34 Natural Gardens *(See the two options below)*

OPTION 1: All property owners shall conform to the City of Alpena Code of Ordinances Chapter 102, Article III (Noxious Vegetation). Property owners may keep up to twenty-five (25%) percent of their rear yard as a natural garden of unmown native vegetation for the purpose of providing a natural ecosystem for insects and wildlife. Said natural garden shall maintain side and rear principal building setbacks. At no time shall this natural garden become a nuisance to neighboring property owners due to the proliferation of natural vegetation, insects, or wildlife into the neighboring yards.

OPTION 2: All property owners shall conform to the City of Alpena Code of Ordinances Chapter 102, Article III (Noxious Vegetation). Natural gardens of (unmown native vegetation for the purpose of providing a natural ecosystem for insects and wildlife) are not permitted.

That the City of Alpena Zoning Ordinance, Article 5 (District Regulations) is hereby amended to read as follows:

TABLE OF PERMITTED USES & SPECIAL LAND USES																		
R = Permitted by right S = Permitted with a Special Use Permit	R1	R2	RT	RM 1	RM 2	OS1	CBD	CCD	B1	B2	B3	I1	I2	P1	WD	CR	PR	
COMMUNICATIONS																		
Amateur Radio Antennae (roof- or ground-mounted)	R*	R*	R*	R*	R*	R*	R*	R*	R*	R*	R*	R*	R*		R*		R*	
Antenna Array (ground mounted or not mounted to a monopole or support structure)																		
Small Cell Wireless Facilities																		
Telecommunications Antenna Array (located on existing attachment structures) 35' or less						R*	R*	R*		R*	R*	R*	R*		R*			
Telecommunications Antenna Array attached to monopole 75' or less						R*	R*			R*	R*	R*	R*		R*			
Telecommunications Towers & Facilities & Alternative Tower Structures (over 75')						S*					S*	S*	S*					
Telecommunications Businesses (w/vehicle storage)								S		R	R	R	R					
Television/Radio Broadcasting Stations						R	R	R		R	R	R			R			
Video & Sound Recording Studios						R	R	R		R	R	R			R			
HUMAN CARE AND SOCIAL ASSISTANCE																		
Adult Day Care Facilities (in private home)																		
Adult Day Care Facilities (not in private home)																		
Adult Foster Care Family Homes (6 or less adults)																		
Adult Foster Care Small Group Home (7-12 adults)																		
Adult Foster Care Large Group Home (13-20 adults)																		
Adult Foster Care Congregate Facilities (over 20 adults)																		
Child Day Care Services (see following)																		
Family Child Care Home	R*	R*	R*	R*	R*													
Group Child Care Home	S*	S*	S*	S*	S*													
Child Care Center	S*	S*	S*	S*	S*	R*			R*	R*	R*							
Nursery Schools	S*	S*	S*	S*	S*	R*			R*	R*	R*							
Health Care /Dental /Optical Clinics						R	R	R	R	R	R				R			
Hospitals						S*				S	S							
Assisted Living Home				S*	S*	R*		R*										
Nursing/Convalescent Home				S*	S*	R*		R*										
Residential Human Care Facility				S*	S*	S*		S*		S*	S*							
State-Licensed Residential Facilities (Adult Foster Care—6 or less adults)	R	R	R	R	R													
Individual & Family Services						R		R		R	R							
Community/Emergency/ Relief Services						R		R		R	R							
Vocational Rehabilitation Services						R		R		R	R							

When this table is finalized, the same changes will be made to the individual tables in Article 5.

That the City of Alpena Zoning Ordinance, Article 7 (Supplemental Development Regulations) is hereby amended to read as follows:

Section 7.37 Telecommunications Facilities

(ADD)

J. Small Cell Wireless Facilities.

1. **Exempt Small Cell Wireless Facilities.** The co-location of a small cell wireless facility and associated support structure within a public right of way (ROW) is not subject to zoning reviews or approvals under this Ordinance to the extent it is exempt from such reviews under the **Small Wireless Communications Facilities Deployment Act, 2018 PA 365**, as amended. In such case, a utility pole in the ROW may not exceed forty (40') feet above ground level and a small cell wireless facility in the ROW shall not extend more than five (5') feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.
2. **Special Land Use Approval for Non-Exempt Small Cell Wireless Facilities.** The modification of existing or installation of new small cell wireless facilities or the modification of existing or installation of new wireless support structures used for such small cell wireless facilities that are not exempt from zoning review in accordance with **2018 PA 365**, as amended shall be subject to review and approval by the Planning Commission as a Special Land Use in accordance with the following procedures and standards:
 - a. The processing of an application is subject to all of the following requirements:
 - (1) Within thirty (30) days after receiving an application under this Section, the Planning Staff shall notify the applicant in writing whether the application is complete. The notice tolls the running of the 30-day period.
 - (2) The running of the time period tolled under **subsection (1)** resumes when the applicant makes a supplemental submission in response to the Planning staff's notice of incompleteness.
 - (3) The Planning Commission shall approve or deny the Special Land Use application and notify the applicant in writing within ninety (90) days after an application for a modification of a wireless support structure or installation of a small cell wireless facility is received or one hundred fifty (150) days after an application for a new wireless support structure is received. The time period for approval may be extended by mutual agreement between the applicant and Planning Commission.
 - b. The Planning Commission shall base their review of the request on the standards contained in **Sections 6.6** and **Section 6.12** provided, however, that a denial shall comply with all of the following:
 - (1) The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.
 - (2) There is a reasonable basis for the denial.

- (3) The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.
- c. In addition to the provisions set forth in **subsection b**, in the Planning Commission's review:
 - (1) An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures.
 - (2) An applicant shall not be required to submit information about its business decisions with respect to any of the following:
 - (a) The need for a wireless support structure or small cell wireless facilities.
 - (b) The applicant's service, customer demand for the service, or the quality of service.
 - (3) The Planning Commission may impose reasonable requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping.
 - (4) The Planning Commission may impose spacing, setback, and fall zone requirements substantially similar to spacing, setback, and fall zone requirements imposed on other types of commercial structures of a similar height in a similar location.
- d. Within one (1) year after a zoning approval is granted, a small cell wireless provider shall commence construction of the approved structure or facilities that are to be operational for use by a wireless services provider, unless the Planning Commission and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required, the zoning approval is void.

K. Exemptions (Single-Use Towers and Masts).

Antenna towers and masts erected and operated as a residential or commercial accessory use serving only that property (devices covered by 47 CFR Section 1.4000) are exempt from this Section. An amateur radio service station antenna structure is regulated by Section 7.3. Other wireless structures may be erected at the minimum heights and dimensions sufficient to accommodate other such wireless transmissions. See **Over-the-Air Reception Devices (47 CFR Section 1.4000)**. Single-use tower and masts shall comply with all FCC rules and regulations in effect at the time they are erected. Property owners who erect single-use towers and masts shall notify the City prior to erecting such a tower. This exemption does not cover antennas used to transmit signals to and/or receive signals from multiple customer locations.

That the City of Alpena Zoning Ordinance, Article 5 (District Regulations) is hereby amended to read as follows:

The following standards in the downtown district might end up restricting creativity in downtown development:

Section 5.13 Downtown Overlay District

B. ~~Design Standards.~~

~~10. Primary Façade.~~

~~e. ELEMENT OF FAÇADE.~~

~~The ground level façade shall be designed to include the elements that make up a traditional storefront including:~~

- ~~(1) A base panel between the sidewalk and the windows~~
- ~~(2) Windows and an entry framed by piers/pilasters~~
- ~~(3) A sign band~~
- ~~(4) A middle cornice separating the ground level façade from the upper stories~~

~~Building facades along a street block will form a street edge that frames the public space. Horizontal elements should be reflected in the design including lintels, windowsills, cornices, transoms, etc. but the vertical character of traditional storefronts as expressed by entries, window openings, and building height is emphasized. Walls along the public right-of-way shall include windows and architectural features such as awnings, cornice work, columns, edge detailing or other decorative finish materials. Wall massing shall be broken up with architectural elements to reduce scale.~~

~~Each primary facade shall incorporate a minimum of three of the following design treatments from items 1-10 and at least one from items 11-12 within fifty percent (50%) of its area for buildings in excess of ten thousand (10,000) square feet, and within thirty-three percent (33%) of its area for buildings of less than ten thousand (10,000) square feet.~~

~~f. DESIGN TREATMENT CHOICES:~~

- ~~(1) Arcades with a minimum width of eight (8) feet clear for buildings in excess of ten thousand (10,000) square feet and six (6) feet clear for buildings of less than ten thousand (10,000) square feet.~~
- ~~(2) Color banding through the use of colored exterior building materials or paint.~~
- ~~(3) Canopies or porticos.~~
- ~~(4) Roofs which extend (overhang) at least eight (8) inches beyond the wall.~~
- ~~(5) Sculpted art work.~~
- ~~(6) Raised cornice parapets over doors.~~
- ~~(7) Arches.~~
- ~~(8) Towers.~~
- ~~(9) Significant shifts in the plane of the building face.~~
- ~~(10) Variations in color.~~
- ~~(11) Change in the exterior building material.~~
- ~~(12) Vertical or horizontal banding of architectural (not color) features.~~

SECTION 2: SEVERABILITY

If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

SECTION 3: SAVING CLAUSE

The City of Alpena Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The amendments provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

SECTION 4: EFFECTIVE DATE

The ordinance changes shall take effect upon the expiration of seven days after the publication of the notice of adoption.

Mayor

Clerk

I, _____, Clerk for the City of Alpena, hereby certify that the foregoing is a true and correct copy of Ordinance No. _____ of 2021 of the City of Alpena, adopted by at a meeting of the Alpena City Council held on _____.

A copy of the complete ordinance text may be inspected or purchased at the Alpena City Hall, at 208 N. First Avenue, Alpena, Michigan.

Adopted:_____ Published:_____ Effective:_____, subject to PA 110 of 2006 as amended.

CITY OF ALPENA BLIGHT ORDINANCE DRAFT

Section 1: Purpose.

It is the purpose of this article to prevent, reduce or eliminate blight or potential blight in the city by the prevention or elimination of certain causes of blight or blighting factors which exist or which may in the future exist in the city, and to rehabilitate already blighted areas in the city.

Section 2: Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Brush means cut or broken branches.

Building materials includes but is not limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, structural or miscellaneous steel, nails, or any other materials used in construction.

Completely enclosed building means a building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.

Garbage means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that is related to the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables.

Inoperable motor vehicle means an inoperable motor vehicle is one that is not currently registered and licensed for operation upon the highways of the state or is not otherwise operable because of missing, damaged, or broken equipment.

Junk includes all rubbish, refuse, and debris including, but not limited to, the following: nonputrescible solid waste, ashes, glass, cans, bottles, discarded or abandoned machinery, household appliances, industrial wastes, discarded, inoperative, dismantled or partially dismantled motorized vehicles or parts thereof. This shall not preclude home or farm composting for on-site use.

Junk automobile includes any motor vehicle that is kept, parked or stored, other than in a completely enclosed building, and is not in operating condition, is not properly licensed or is incapable of performing the transportation function for which it was manufactured. The term "junk vehicle" does not include a motor vehicle ordinarily used, but temporarily out of running condition.

Junk yard is an area where junk, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A "Junk Yard" includes automobile wrecking yards and includes any open area of more than two hundred (200) square feet for storage, keeping or abandonment of junk. A "Junk Yard" shall include any premise upon which two (2) or more motor vehicles which are unregistered and/or which cannot be operated under their own power, are kept or stored for a period of fifteen (15) days or more outside of an enclosed building. *(This definition is from the zoning ordinance)*

Rubbish means nonputrescible solid wastes, excluding ashes, consisting of both combustible or noncombustible wastes, such as paper, cardboard, metal containers, wood, glass, bedding, crockery, bags, rags and demolished building materials.

Person includes an individual, a firm, a corporation, a partnership, an association, an incorporated association, a limited liability company, or any other similar entity, or their agents.

Sealed container means a covered, closable container which is rodent-proof, fly-proof and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twisted shut.

Section 3: Causes of Blight.

It is determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods:

1. **Junk automobiles.** The storage upon any property of junk automobiles, except in a completely enclosed building or in a licensed junk yard.

(The following is from zoning ordinance – we can leave it there or put it here?) No more than one (1) inoperable vehicle may be stored outside the dwelling or the garage of the dwelling. Any such inoperable vehicle stored outside the dwelling or garage of the dwelling shall not be stored in the front yard and must be properly covered.

(The following is from a proposed amendment to the zoning ordinance – We can leave it there or put it here?) Vehicles utilized for demolition derbies shall not be stored or repaired in a front or side yard and shall only be stored or repaired in a rear yard (which is screened from view of neighboring property or rights-of-way) or in an accessory building or attached garage. Vehicles utilized for demolition derbies shall only be stored/repared on a solid foundation made of concrete or a similar impermeable material (not soil or grass).

2. **Building materials.** The storage upon any property of building materials unless there is in force a valid building permit issued by the city for construction upon the property and the materials are intended for use in connection with such construction. This does not include storage of building materials on property that contains a construction-related business or retail sales of building materials.
3. **Junk.** The storage or accumulation of junk, garbage, rubbish, or refuse of any kind, except for
 - a. junk stored in a licensed junkyard;
 - b. refuse stored in a covered container for a period not to exceed 30 days;
 - c. firewood that is neatly stacked so as not to provide harborage for rodents and vermin; or

- d. yard waste compost piles that are properly maintained to prevent odor, rodent, vermin or insect nuisances.

4. **Uninhabitable structures.**

- a. **Due to disaster.** In any area, the existence of any structure or part of a structure which, because of wind, or other disaster, is no longer habitable as a dwelling or is not useful for any other purpose for which it may have been intended and is left in that condition for a period of more than six months. Structures or any part of a structure which are damaged by fire shall comply with Section 50-5 (Fire Damaged Structures) of the Alpena Code of Ordinances.

- b. **Due to physical deterioration.** In any area, the existence of any structure or part of a structure which, because of physical deterioration, is no longer habitable as a dwelling or is not useful for any other purpose for which it may have been intended.

5. **Vacant buildings.** The existence of any vacant dwelling, garage, or other outbuilding unless such building is kept securely locked and the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals or trespassers.

6. **Unmaintained buildings.** Buildings which are not being maintained or are becoming dilapidated as evidenced by existence of one or more of the following conditions:

- a. missing, broken or boarded up windows or doors.
- b. collapsing or missing walls, roof, or floor.
- c. structurally faulty foundation.
- d. seriously damaged or missing siding.
- e. rodent harborage and/or infestation.

7. **Partially completed structures.** The existence of any partially completed structure unless such structure is in the course of construction in accordance with a valid and subsisting building permit issued by the city and unless such construction is completed within the life of the building permit or a valid extension thereof.

8. **Public property or other property.** The placing of junk, garbage, rubbish, or dead animals on private property without the owner's permission, or on any street, alley, or utility easement, or on any public property. This provision applies regardless of whether the junk, garbage, rubbish, or dead animal is in a sealed container.

9. **Waste.** Intentional depositing of oil, gasoline or industrial wastes on the ground.

10. **Fences.** Fences characterized by holes, breaks, rot, crumbling, cracking, peeling, or rusting.

11. **Parking lots.** Parking lots left in a state of disrepair or abandonment.
12. **Other.** Other conditions posing a serious threat to the safety, health and/or general welfare of the community, as determined by the building official; attracts illegal activity, as documented by police reports; or is a fire hazard, as determined by the Fire Chief.

Section 4. Responsibilities of property owners, tenants and occupants.

- a. **Property owners.** No property owner shall maintain or permit to be maintained any of the causes of blight or blighting factors set forth in Section 3 upon any property in the city owned by such person.
- b. **Tenants or occupants.** Any tenant or occupant of property in the city shall also be responsible for any of the causes of blight or blighting factors set forth in Section 3 that he/she creates or permits on the property leased or occupied by him/her.

Section 5. Enforcement authority.

This article shall be enforced by such person as may be designated by the City Manager.

Section 6. Notice of violation.

- a. **First offense.** The owner, if possible, or the occupant of any property upon which any of the causes of blight or blighting factors set forth in this article is found to exist shall, upon the first offense, be notified in writing to remove or eliminate such causes of blight or blighting factors from such property within seven days after service of the notice upon him/her. Such notice may be served personally or by registered mail, return receipt requested.
- b. **Subsequent violations.** For subsequent or repeat violations by the same person, such written notice shall not be required.
- c. **Granting of additional time.** Additional time may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in a state of progress deemed satisfactory to the enforcement officer.

Section 7. Failure to comply; municipal civil infraction.

Failure to comply with the notice provided in Section 6 by the owner and/or occupant within the time allowed shall constitute a violation of this article. A person who violates this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth Chapter 48.