

Grand Traverse Commons
Joint City of Traverse City/Garfield Township Planning Commission

Wednesday, May 7, 2014

7:00 p.m.

Governmental Center, 2nd Floor

Committee Room

400 Boardman Avenue, Traverse City, MI 49684

Posted: 5/2/14

The City of Traverse City does not discriminate on the basis of disability in the admission or access to or treatment or employment in, its programs or activities. Penny Hill, Assistant City Manager, 400 Boardman Avenue, Traverse City, Michigan 49684, 922-4440, T.D.D., 922-4766, has been designated to coordinate compliance with the non-discrimination requirements. If you are planning to attend and you have a disability requiring any special assistance at the meeting and/or if you have any concerns, please immediately notify the ADA Coordinator.

AGENDA

1. Call Meeting To Order
2. Approval of the Agenda
3. Approval of the Minutes of the March 5, 2014 Meeting Study Session with the Recreational Authority and Approval of the Minutes of the March 5, 2014 Regular Meeting.
4. Grand Traverse Commons Zoning Ordinance - revised draft Articles 1-4 and draft Fence and Enclosure regulations (Discussion)
5. Reports and Updates
6. Public Comment
7. Adjournment

Grand Traverse Commons
Joint City of Traverse City/Garfield Township
Planning Commission

Joint Study Session
Wednesday, March 5, 2014
6:30 pm
Governmental Center, 2nd Floor
Training Room
400 Boardman Avenue, Traverse City, MI 49684

MINUTES

1. The joint meeting the Charter Township of Garfield and City of Traverse City Recreational Authority Board began at 6:30 PM.
2. Roll Call

Present: Commissioners Clark, Serratelli, Hale, Racine, Warren

Absent:

Staff: Russ Soyring, City Planning Director, Brian VanDenBrand, Township Deputy Planner

3. Grand Traverse Commons Circulation and Parking.

Matt Cowell, Executive Director of the Recreational Authority discussed the circulation and parking needs and concerns. Parking is occurring informally on the grounds and at times vehicles are blocking fire lanes. Fire lanes will be posted to address this issue.

4. Temporary parking area behind the Barns.

Mr. Cowell discussed the need to organize parking and recommended a parking lot near the trail head be developed just west of the Cathedral Barn.

Discussion by the Commissioners and Board Members. A concern was raised that a “temporary” parking lot will become a permanent parking lot.

Deputy Planner VanDenBrand offered an alternative just east of the barns.

Discussion by the Commissioners and Board Members.

Scott Jozwiak, consulting engineer commented on the parking lot.

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5. Grand Traverse Commons Hydrology

Mr. Cowell stated that the hydrology in the area appears to be changing resulting in water issues for some of the structures on the Recreational Authority property. The hydrology is being studied and opportunities are being explored to use the ground water in beneficial ways.

Discussion.

6. Reports and Updates

None.

7. Public Comment.

None.

8. Adjournment.

The joint study session was adjourned at 7:36 PM.

Dated

Jan Warren, Secretary

Grand Traverse Commons Planning Commission

Regular Meeting
Wednesday, March 5, 2014
Immediately following the Joint Study Session
Governmental Center, 2nd Floor
Committee Room
400 Boardman Avenue, Traverse City, MI 49684

MINUTES

1. Meeting began at 7:42 PM.
2. Roll Call

Present: Commissioners Clark, Serratelli, Hale, Racine, Warren
Absent: None

Staff: Russ Soyring, City Planning Director, Brian VanDenBrand, Garfield Township
Deputy Planner

3. Review and Approval of the Agenda - Conflict of Interest.

Motion by Commissioner Racine, supported by Commissioner Warren to approve the agenda. Motion passed.

4. Approval of Minutes. Approval Recommended.

A motion was made Commissioner Warren, supported by Commissioner Serratelli to approve the January 14, 2014 Regular Meeting minutes. Motion passed.

5. Old Business

- A. Draft Zoning Ordinance.

Mr. Soyring stated that staff has worked on the fence regulations, legal issues regarding enforcement of the various codes and representation on the Zoning Board of Appeals.

Deputy Planner VanDenBrand commented on the complexities created by having a jurisdictional line running through buildings and development zones. Currently, the County, Township and/or City would need to approve building projects.

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Discussion.

Raymond Minervini, The Minervini Group stated that he would appreciate o

6. New Business

- A. Temporary parking area behind the Barns (Request by Matt Cowell, Recreation Authority.

Discussion by the Planning Commissioners.

7. Correspondence

None

8. Public Comment

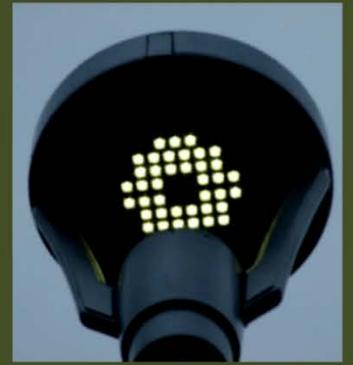
Raymond Minervini, The Minervini Group stated that Cottage 30 is planned for apartments and condominiums and his company would be the developers.

9. Adjournment

The meeting was adjourned at 8:22 PM.

Dated

Jan Warren, Secretary



GRAND TRAVERSE COMMONS

Draft 9/3/13

Development Regulations

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Article 1

General Provisions and Definitions

Section 1.01 Title.

This Ordinance shall be known and may be cited as the “Grand Traverse Commons Development Regulations,” hereinafter called the “Ordinance.”

Section 1.02 Intent.

This Zoning Ordinance is intended to implement:

- A. The concepts outlined in the *Grand Traverse Commons Master Plan* of 2010 as adopted per P.A. 33 of 2008, as amended being the Michigan Planning Enabling Act (M.C.L. 124.3801 et seq.).
- B. Land use regulations that place careful and coherent controls on building and landscape form, while employing more flexible parameters relative to building use and density.
- C. The *Smart Growth Tenets* adopted by the *Governors Land Use leadership Council*, including:
 1. Create a range of housing opportunities and choices;
 2. Create walkable neighborhoods;
 3. Encourage community and stakeholder collaboration;
 4. Foster distinctive, attractive communities with a strong sense of place;
 5. Make development decisions predictable, fair and cost-effective;
 6. Mix land uses;
 7. Preserve open space, farmland, natural beauty and critical environmental areas;
 8. Provide a variety of transportation choices;
 9. Strengthen and direct development towards existing communities; and
 10. Take advantage of compact development design.

Section 1.03 Purpose.

The State of Michigan has declared through the Michigan Zoning Enabling Act, Act 110 of 2006 and by reference, the City of Traverse City and the Charter Township of Garfield also hereby declares that the purposes of zoning are:

- A. To meet the needs of the State’s residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service and other uses of land;
- B. To ensure that uses of the land shall be situated in appropriate locations and relationships;
- C. To limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities;
- D. To facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and
- E. To promote public health, safety and welfare.

Section 1.04 Interpretation; Conflict of Laws.

This Zoning Ordinance is the minimum requirement for promoting the purposes of the Michigan Zoning Enabling Act, Act 100 of 2006. If it imposes more restrictions than State law or other City or Township ordinances, the provisions of this Zoning Ordinance shall govern. If the *State Housing Law* (MCL 124.401 et

seq.; MSA 5.2771, et seq.) or the Airport Zoning Act (MCL 259.431, et seq.; MSA 5.3475) or other statutes or ordinances have stricter regulations, the provisions of the statute or other ordinance shall govern. This Zoning Ordinance is not intended to interfere with or to annul any easement, covenant or other agreement between parties. Section titles or headings and any entire section entitled “Purpose” shall be interpretive aids only and shall not be construed to impose any substantive or procedural requirement.

Section 1.05 Changes and Amendments.

- A. Procedure. The Joint Planning Commission shall review any proposal to amend development regulations. Following a public hearing the Joint Planning Commission shall report its recommendation to the City Commission and Township Board, which, upon adoption of concurrent resolutions, may amend development regulations. The City Commission and/or the Township Board may also hold a public hearing with the notice it deems advisable. The procedure for the Joint Planning Commission public hearing shall be as follows:
1. Notice of the public hearing shall be given in an official newspaper of general circulation in the City and Township at least 15 days prior to the set hearing date.
 2. Notice of the time and place of the public hearing shall be mailed at least 15 days prior to the set hearing date to each airport manager; electric, gas, pipeline, telephone, telecommunications provider; public utility company, and to each railroad company owning or operating any public utility or railroad within the districts affected; provided that the foregoing registers its name and mailing address with the City and Township Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.
 3. After the Ordinance and maps have first been approved by the City Commission and Township Board, if an individual property or several adjacent properties are proposed for amendments, notice of the proposed amendment and hearings shall be given at least 15 days before the hearing to:
 - a. The owners of the property in question, unless 11 or more adjacent properties are proposed for amendment;
 - b. All persons to whom real property is assessed within 300 feet of the property in question and to the occupants of all structures within 300 feet of the subject property, unless 11 or more adjacent properties are proposed for amendment. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a structure contains more than four dwelling units or district spatial areas, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance to the structure. Where the name of the occupant is not known, the term “occupant” may be used in making notification.
- B. Notice. The notice shall contain the following:
1. A description of the proposed change to development regulations;
 2. For changes to district boundaries or designations, a description of the subject property including a listing of all existing street addresses within the property where they exist, unless 11 or more adjacent properties are proposed for amendment;
 3. The time and place of the public hearing;
 4. When and where written comments will be received; and
- C. Protest. An amendment to the Zoning Ordinance is subject to a protest petition. If a protest is filed, approval of the amendment shall be passed only upon five (5) affirmative votes of the City Commission and five (5) affirmative votes of the Township Board. The protest petition shall be

presented before final legislative action on the amendment and shall be signed by one or more of the following:

1. The owners of at least 20 percent of the area of land included in the proposed change, excluding any publically owned land in making the 20 percent land area calculation.
 2. The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change, excluding any publically owned land in making the 20 percent land area calculation.
- D. Hearing Request. The City Commission and/or Township Board shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the City Clerk and/or Township Clerk. A hearing under this subsection is not subject to the notice requirements of this Section, except that notice of the hearing shall be given to the interested property owner in the manner described by this Section.
- E. Publication. Following the adoption of a Zoning Ordinance or amendment by the City Commission and Township Board, a notice of adoption shall be published in a newspaper of general circulation in the City and Township within 15 days after adoption. The notice shall include the following information:
1. In the case of a newly adopted zoning ordinance, the following statement: “A Zoning Ordinance regulating the development and use of land has been adopted by the City Commission of the City of Traverse City and Township Board of the Charter Township of Garfield.”;
 2. In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment;
 3. The effective date of the Ordinance; and
 4. The place and time where a copy of the Ordinance may be purchased or inspected.
- F. Court Decree. An amendment for the purpose of conforming a provision of the Zoning Ordinance to a decree of a court of competent jurisdiction may be adopted by the City Commission and Township Board and the notice of the adopted amendment published without referring the amendment to the Joint Planning Commission.

Section 1.06 Application of Code; Compliance Required.

Except as otherwise allowed by the Zoning Ordinance:

- A. No building or structure shall be built, rebuilt, converted, enlarged, moved or structurally altered, and no building or land shall be used, except for a use allowed in that district.
- B. No building or structure shall be built, rebuilt, converted, enlarged, or structurally altered except in conformity with the exterior standards, height, setback, bulk and other dimensional/architectural limits for that district.
- C. No land shall be cleared, no building or structure shall be built or rebuilt, converted, enlarged or structurally altered, and no parking area built or enlarged except after applying for and receiving a land use permit.
- D. No building shall be built or enlarged except in conformity with parking, loading, and landscaping regulations of the district in which such building is located unless it receives a special land use permit or parking waiver that changes these regulations.

- E. Parking shall be dedicated within the parking zone of the development envelope or along streets where permitted.

Section 1.07 Severability.

If any provision of this Ordinance is declared invalid by a court, such decision shall not affect the validity of the Ordinance or any part other than the part declared to be invalid.

Section 1.08 Compliance with Other Applicable Statutes, Ordinances, or Administrative Rules

No building, parking area or structure in any area shall be permitted which does not comply with applicable federal, state, county, public health, or City/Township statutes, ordinances or administrative rules. The Zoning Administrators shall enforce this section by cooperating with and reporting suspected violations to the respective enforcement agency(s) responsible for enforcement of the statutes, rules, and/or ordinances cited above. The City Commission and Township Board may take direct enforcement action only after a finding that cooperation between the Zoning Administrators with other agencies has not been successful.

In the case of conflict between a City ordinance, Township ordinance, and/or the Grand Traverse Commons Development Regulations, the City Commission and Township Board shall pass concurrent resolutions to establish which regulation control(s) shall apply.

Section 1.09 Definitions.

As used in this Ordinance:

Abutting means a lot or parcel which shares a common border with the subject lot or parcel.

Accessory building means a building or structure customarily incidental and subordinate to the principal building and located on the same lot as and spatially separated from the principal building.

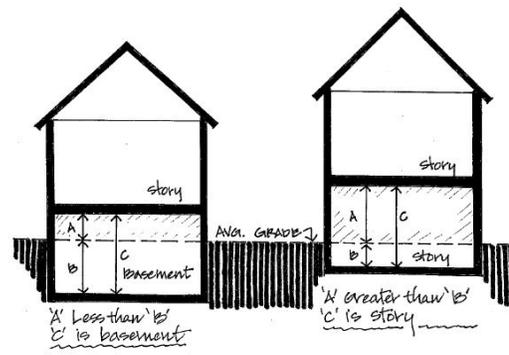
Accessory use means a use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

Aggrieved person means a person who has suffered a substantial damage from a zoning decision not in common to other property owners similarly situated, and who has actively opposed the decision in question.

Alley means a way which functions primarily as a service corridor and provides access to properties abutting thereon. "Alley" does not mean "street".

Alteration means any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders.

Basement /Ground Story (see graphic to right) means that portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement, as defined herein, shall not be counted as a story (see Figure 1-1). A cellar is a basement.



Brewpub means a facility as defined by the State of Michigan Liquor Control Code (Act 58 of 1998, MCL 436.1101 et seq.)

Building means any structure designed or built for the enclosure, shelter or protection of persons, animals, chattels or property of any kind.

Building Coverage means that portion of the development envelope which is covered by a building or buildings.

Building, height of. See "Height of building".

Building, principal. "Principal building" means a building within which is conducted the main or principal use of the lot upon which it is located.

Communication Antenna means a device, dish or array used to transmit or receive telecommunication signals mounted on a communication tower, building or structure that is greater than one square meter in a residential district or two square meters in a non-residential district. Antenna does not include federally-licensed amateur radio station, television or radio receive-only antennas or antennas used solely for personal use. Communication antennas are not essential services, public utilities, or private utilities.

Communication tower or tower means any structure that is primarily designed and constructed for the purpose of supporting one or more antennas for telecommunications, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. Communication towers are not essential services, public utilities, or private utilities.

Community Garden means a parcel gardened collectively by a group of people.

Critical root zone means a circular area surrounding a tree, the radius of which is measured outward from the trunk of a tree one foot for each one inch of diameter at breast height. The critical root zone shall also extend to a depth of four feet below the natural surface ground level.

Development Envelope means the defined area where buildings are permitted.

Diameter at breast height means the diameter of a tree trunk in inches measured at four and one-half feet (4.5') above the ground.

District means a section of the Grand Traverse Commons for which the zoning regulations governing the use of buildings and premises, the height of buildings, the setbacks, and the intensity of use are uniform.

Dripline means an imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Driveway means a means of access for vehicles from a street or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot.

Erected means built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like shall be considered a part of erection when done in conjunction with a structure.

Essential services means the installation, construction, alteration or maintenance by public utilities or governmental agencies of underground, surface, or overhead telephone, electrical, gas, steam, fuel, or water distribution systems; collections, supply or disposal systems; streets, alleys, sidewalks, or trails, including pavement; traffic control devices, signs, poles, wires; mains, drains, sewers, pipes; conduits, cables, padmount transformers; fire alarm and police call boxes, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or governmental agencies for the general public health, safety, convenience or welfare. "Essential services" do not include communication antennas and communication towers.

Essential service-structures means the erection, construction, alteration or maintenance by public utilities or governmental agencies of structures not in the right-of-way over 800 cubic feet in area including, but not limited to, towers, transmission and subtransmission facilities, or buildings related to essential services in all districts.

Facade means the exterior wall of a building exposed to public view.

Fence means a constructed barrier made of wood, metal, stone, brick or any manufactured materials erected for the enclosure of yard areas.

Flood plain, 100 year. "100 year flood plain" means the lowland areas adjoining inland and coastal waters which are identified on Floodway Maps produced by FEMA (Federal Emergency Management Agency) and which are estimated to have a one per cent chance of flooding in a given year.

Floor area. See Building Coverage

Frontage means the total continuous width of the front lot line.

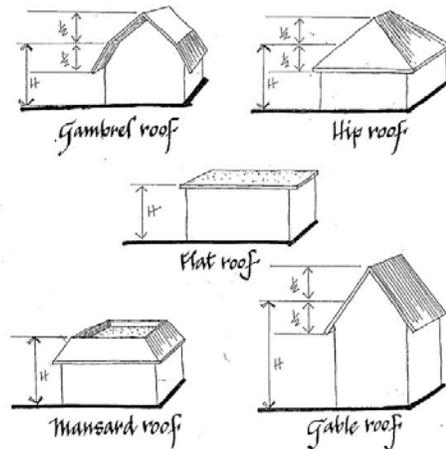
Grade means:

1. **For buildings having walls adjoining one street only** the elevation of any sidewalk, top of curb, or centerline of the street, whichever is closest to the building, where a building wall adjoins a street.
2. **For buildings having walls adjoining more than one street.** the average elevation of the sidewalks, curbs or centerlines of streets, whichever is closest to the building walls adjoining the streets.
3. **For buildings having no wall adjoining the street.** the average of the lowest and highest ground surface elevations in an area within six feet of the foundation line of a building or structure.

Ground Floor means the first floor above the Basement / Ground Story.

Ground Story. See definition of "Basement/Ground Story"

Height of Building (see graphic to right) means a vertical distance from the grade to the highest point on a mansard or flat roof, or the median height between the eaves and the ridge for gable, hip, and gambrel roofs.



Impervious surface means any material which prevents, impedes or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation bearing soils, including building, asphalt, concrete, gravel and other surfaces. Impervious surfaces shall not include those areas used exclusively for pedestrian or recreational purposes.

Land clearing means the clearing of over 8,000 square feet of vegetation from any site, or the removal of more than 20 trees more than 6 inches in diameter at breast height and within 50 feet of a public or private street or river. Mowing, trimming or pruning of vegetation to maintain it in a healthy, viable condition is not considered land clearing.

Landscaping means some combination of planted trees, vines, ground cover, flowers or turf so long as a minimum of 80 per cent of the landscape area is covered by living plant material. In addition, the combination or design may include rock ground cover, earth mounds, and such structural features as fountains, pools, art works, screens, walls, fences and benches.

Manufacturing means the production of articles for use from raw or prepared materials by giving these materials new forms, qualities, properties or combinations, whether by hand labor or machine.

Micro Brewer means a person as defined and licensed by Michigan Liquor Control Code (Act 58 of 1998, MCL 436.1101 et seq.)

Microbrewery means a facility or facilities owned or controlled by a licensed Micro Brewer.

Non-conforming use means a lawful use of land that does not comply with the current use regulations for its zoning district but which was compliant with applicable regulations at the time the use was established.

Parking area means any public or private area designed and used for parking motor vehicles, including parking lots, driveways and legally designated areas of public streets, located under or outside of a building or structure.

Parking structure means a building or structure consisting of more than one level and used to park motor vehicles.

Parking Zone means the defined area within a Development Envelope where surface motor vehicle parking is permitted (except as otherwise allowed by the Street Parking Plan).

Planning director means the head of the City Planning and Zoning Department, or the head of the Township Planning Department, or the designee(s) of those persons.

Principal use means the main use of land or structures as distinguished from a secondary or accessory use.

Public utility means any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

Recreational vehicle means a vehicle having its own motor power, or a vehicle mounted on or drawn by another vehicle, which is primarily designed and used as a temporary living quarters for recreational, camping, or travel purposes.

School means an educational institution under the sponsorship of a private or public agency providing elementary or secondary curriculum, and accredited or licensed by the State of Michigan.

Screen means a structure providing enclosure and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other growing materials.

Screen, opaque means a masonry wall, fence sections, earthen berm, evergreen hedge or a combination of these elements which completely interrupt visual contact and provide spatial separation.

Site diagram means a drawing, drawn to scale, showing the location of buildings and structures, as well as driveways, curb cuts, alleys, streets, easements and utilities on a lot.

Site plan means a plan showing all proposed improvements to a given lot, which is evaluated in order to determine whether it meets the provisions of this Code.

Stop work order means an administrative order which directs a person not to continue or does not allow for the continuation of an activity which is in violation of this Code.

Street means any public way, such as a public street, avenue, or boulevard which is at least 16 feet wide. Street does not mean "alley". See also "Private Street."

Street Parking Plan means the Street Types and Circulation Map of this Ordinance.

Street, access. "Access street" means a street or alley designed primarily to provide access to properties.

Street, arterial. "Arterial street" means a street designed to carry high traffic volumes through the community.

Street, collector. "Collector street" means a street designed to carry moderately high traffic volumes from arterial and access streets.

Street, private. "Private street" means an officially approved thoroughfare, other than a public street or alley, permanently reserved as the principal means of access to abutting property.

Structural alterations means any change(s) in a building requiring a building permit.

Structure means anything constructed or erected, the use of which requires a more or less permanent location on the ground or an attachment to something having a permanent location on the ground, including, but not limited to, freestanding signs, billboards, back stops for tennis courts and pergolas.

Treelawn means the area of public right-of-way lying between the curb line of a curbed street or developed travelway of a noncurbed street and the nearest private property line substantially parallel to said street. For a private street the treelawn means the area extending 10-feet outside of a curb or traveled way.

Trip end means the total of all motor vehicle trips entering plus all motor vehicle trips leaving a designated land use or building over a given period of time.

Vehicular Control Point means a physical feature within a roadway intended to slow or stop traffic.

Zoning Ordinance means the text of this Development Regulation Ordinance as well as all maps, tables, graphics, schedules as included or attached as enacted or subsequently amended.

Section 1.10 Water Protection

Notwithstanding anything to the contrary in this Ordinance, the following provisions shall apply:

- A. Within ten (10) feet of the water's edge of tributaries and springs which ultimately empty into Lake Michigan, an undisturbed area of vegetation shall be maintained by not removing woody or native herbal species. Trees with a trunk diameter of three inches at breast height (4 ½ feet) or greater shall not be removed unless dead or dying. Trees and other woody plant material of a smaller diameter at breast height shall not be removed, except to prune or to clear a filtered view. It shall be the landowner's responsibility to maintain this vegetation belt in a healthy state.
- B. No building or structure shall be built, located or constructed within a 100 year flood plain of any water bodies in any land use area as may be determined by the Department of Natural Resources and Environment.

Section 1.11 Hazardous Substance, Groundwater Protection

Except as provided herein, all businesses and facilities which use, store, or generate hazardous substances in quantities greater than two hundred twenty (220) pounds per month or twenty-five (25) gallons per month, whichever is less, shall comply with the groundwater protection requirements of this section. However, the groundwater protection requirements of this section shall not apply to fuel stored in a fuel tank which is part of the motor vehicle for purposes of use by that section shall apply to fuel stored in a fuel tank which is part of the motor vehicle for purposes of use by that vehicle's motor and shall not apply to materials in a five gallon, or smaller, pre-packaged sealed container.

- A. Groundwater Protection, generally:
 1. Projects and related improvements shall be designed to protect the natural environment, including ponds, streams, wetlands, floodplains, groundwater; steep slopes and natural and man-made drainage systems.
 2. General purpose floor drains shall be:
 - a. Connected to an on-site holding tank (not a septic tank/drain field or a dry well) in accordance with state, county and municipal requirements; or
 - b. Authorized through a state groundwater discharge permit; or
 - c. Connected to a public sewer system.
 3. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met.
 4. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate state and county permits and approvals.
 5. In determining conformance with the standards in this Ordinance, the Zoning Administrators and Joint Planning Commission shall take into consideration the publication titled "Small Business Guide to Secondary Containment; Practical Methods for Above-ground Storage and Containment of Hazardous Substances and Polluting Materials" published by the Clinton River Watershed Council, May 1990, and other references.
 6. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health and the County Health Department.
 7. If the site plan includes territory within a Wellhead Protection Overlay Area, the applicant shall submit a signed statement providing permission for periodic follow-up groundwater protection inspections by the Zoning Administrators, and county and state officials.

B. Above-Ground Storage

1. Primary containment of hazardous substances shall be in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
2. Secondary containment for the storage of hazardous substances and polluting materials is required. Secondary containment shall be one of the following, whichever is greatest:
 - a. Sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance;
 - b. At least as great as volumes required by state or county regulations; or
 - c. If not protected from rainfall, contain a minimum of 110 percent (110%) of the volume of the largest storage container within the dike of the secondary containment area plus, or the volume that is occupied by all other objects within and below the height of the dike of the secondary containment area plus; or the volume of a 6-inch rainfall.
3. Secondary containment structures such as buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
4. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled, stored or used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater or soils.
5. At a minimum, State of Michigan and Federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal shall be met.
6. Bulk storage of pesticides shall be in accordance with requirements of the Michigan Department of Agriculture.

C. Underground Storage

1. Underground storage tank installation, operation, maintenance, closure and removal shall be in accordance with the requirements of the Michigan State Police Fire Marshall Division and the DEQ, or their successor agencies.
2. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

Section 1.12 Outside Lights

Purpose and findings: These provisions are intended to control the use of outdoor, artificial illuminating devices emitting rays into the night sky that have a detrimental effect on the rural atmosphere and astronomical observations and that create glare. It is the intention of this section to:

- Encourage good lighting practices such that lighting systems are designed to conserve energy and money;
- Minimize glare;
- Protect the use and enjoyment of surrounding property; and
- Increase nighttime safety, utility, security, and productivity.

A. Applicability

1. All outdoor, artificial illuminating devices shall be installed in conformance with the provisions of this section.
2. This section does not prevent the use of any material or method of installation not specifically addressed. In considering any deviation from the provisions of this section, the Zoning Administrator shall take into consideration any state-of-the-art technology that is consistent with the intent of this section as new lighting technology develops that is useful in reducing light above the horizontal plane.

B. Exceptions

The following types of light fixtures shall be exempt from the provisions of this section:

1. **Low-intensity residential decorative lighting:** Residential decorative lighting including porch lights, low level lawn lights, seasonal light such as for Christmas decorating provided that if any such light is directed toward adjacent residential buildings or nearby land, or creates glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.
2. **Public street luminaires:** Luminaires used for public street illumination may be installed up to the edge of any bordering property.
3. **Emergency lighting:** All temporary emergency lighting needed by the police, the fire departments, or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this section.
4. **Nonconforming fixtures:** All outdoor light fixtures legally installed prior to the adoption of this Ordinance may remain unchanged, except that any replacement of the subject light fixtures shall be done in compliance with this chapter.
5. **Neon lighting**
6. **Flag lighting:** Luminaires used for the illumination of the flag of the United States of America shall be exempt from the requirements of this section.

C. Shielding and Filtration

1. All nonexempt outdoor lighting fixtures shall be hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way line. Direct or directly reflected light shall be confined to the lot from which it originates. Lighting plans shall be designed so as to avoid the reflection of artificial lighting from rooftops.
2. All lighting fixtures shall have one hundred percent (100%) cut off and shall not emit any direct light above a horizontal plane through the lowest direct light emitting part of the luminaire, as may be certified by a photometric test. The intensity of light at any angle above a cutoff of seventy five (75) degrees shall be less than ten percent (10%) of the peak candela for the luminaire.
3. Light source locations shall be chosen to minimize the hazards of glare.
4. All poles or standards used to support outdoor lighting fixtures shall be anodized or otherwise coated to minimize glare from the light source.

D. Illumination

1. **Generally**

Illumination levels within a site shall ensure that a site is adequately, but not excessively, lit at night. Where feasible, average lighting values of illuminated areas ranging from 0.5 to 1.5 foot candle are recommended. In order to ensure visibility, safety, and security, without unnecessarily contributing to light pollution and limiting enjoyment of the night sky, the following illumination standards shall apply.

2. **Illumination Levels**

- (A) Average Illumination Levels. Average illumination levels of the illuminated area shall not exceed the levels set forth in Table 5-7 and Table 5-8 for any use permitted by this section.

**Table 5-7
Average Illumination Standards**

Area/Activity	Foot Candles
Main Parking Area	3.0
Peripheral Parking Area	2.0
Main Drive Areas	5.0
Directly below lighting fixture	20.0

- (B) Illumination at Property Line. Illumination levels at the property line shall not exceed the levels set forth in Table 7.12.2 for any use permitted by this section. The maximum illumination shall be measured at grade at the property line of the site.

**Table 5-8
Illumination Standards at Property Line**

Area/Activity	Foot Candles
Residential Zoning Districts	
Adjoining residential zoning district	0.2
Adjoining nonresidential zoning district	1.0
Nonresidential Zoning Districts	
Adjoining another nonresidential zoning district along an arterial	2.0
Adjoining another nonresidential zoning district along collector street	1.2
Adjoining another nonresidential zoning district along local street	1.0
Adjoining another nonresidential zoning district along property line	1.0
Adjoining residential zoning district along arterial	1.0
Adjoining residential zoning district along collector street	0.6
Adjoining residential zoning district along local street	0.4
Adjoining residential zoning district along property line	0.2
Outdoor Events	
Adjoining or within 1,000 feet of residential zoning district	10

- (C) Exceptions to Average Illumination Levels. Automobile dealerships shall be permitted a maximum average illumination level of ten (10) foot candles. Gas stations shall be permitted a maximum illumination level of ten (10) foot candles under a pump island canopy only, provided that all light fixtures under such canopy shall be fully recessed into the canopy structure or otherwise fully shielded.
- (D) Waivers. The approval authority may permit an illumination level higher than specified where a demonstrable need for higher lighting levels exists, as evidenced through competent filings which shall be kept on file by the Township.

E. Color Temperature

Color temperature is measured in Kelvin (K) temperature. In order to minimize negative impacts on circadian rhythms, melatonin production in humans and other animals, and astronomical observation, all proposed lamps shall emit light measuring 3,500 K or warmer (between 0 K and 3,500 K) on the Kelvin scale.

F. Prohibitions

1) *Mercury-Vapor Fixtures and Lamps*

The installation of any mercury-vapor fixture or lamp for use as outdoor lighting is prohibited.

2) *Metal Halide Fixtures and Lamps*

The installation of any metal-halide fixture or lamp for use as outdoor lighting is prohibited except as follows:

(A) For outdoor recreation area and amusement area lighting, provided such are mounted at a sufficient height and are properly equipped with baffling and glare guards to meet the requirements of this section; and

3) *Laser Source Light*

The use of laser source light or any similar high-intensity light is prohibited.

4) *Searchlights*

The operation of searchlights is prohibited.

5) *Certain Other Fixtures and Lamps*

The installation of any outdoor lighting fixture or lamp is prohibited unless it complies with the shielding and illumination standards (§ 1.11.C Shielding and Filtration and § 1.11.D Illumination) of this chapter.

G. Recreational Facilities

No outdoor recreational facility, public or private, shall be illuminated after 11:00 PM, unless otherwise permitted pursuant to a special use permit, except to conclude specific recreational or sporting events or any other activity conducted at a ball park, outdoor amphitheater, arena, or similar facility in progress prior to 11:00 PM.

H. Outdoor Building or Landscaping Illumination

The unshielded outdoor illumination of any building, landscaping, signing, or other purpose is prohibited, except with incandescent fixtures of one hundred and fifty (150) watts or less, or low-pressure sodium fixtures.

I. Pole Height

Unless otherwise permitted by special use permit, the maximum height of any pole-mounted lighting fixture or lamp shall not exceed the maximum permitted height of the zoning district in which the fixture or lamp is located.

A. All outdoor lighting fixtures including, but not limited to, pole mounted or building mounted lights other than decorative residential lighting such as porch or low level lawn lights shall be subject to the following regulations:

1. Lighting shall be designed and constructed in such a manner to:

- a. Insure that direct or directly reflected light is confined to the area needing it and that it is not directed off the property;
- b. That all light sources and light lenses are shielded and down facing;
- c. That any lighting elements are not directly visible from beyond the boundary of the site. (Fixtures with a single light rated at less than 200 lumens are excluded from this requirement.)

- d. That light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.
2. There shall be no lighting of a blinking, flashing or fluttering nature, including changes in light intensity, brightness or color.
3. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

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Section 1.13 Fences and Enclosures

Fencing and screen walls shall generally reflect the characteristics shown in the images below in terms of materials, colors, height and design for the various districts. Wood, metal, stone are acceptable materials. Any fence taller than 6 feet requires Planning Commission approval.

The following examples indicate appropriate fence types within the Village Districts:



The following examples indicate appropriate fence types within the Residential Districts:



The following examples indicate appropriate fence types within the Medical and Institutional Districts:



The following examples indicate appropriate fence types within the Recreation/Cultivation and Conservation/Recreation District:



Section 1.14 Parking Areas

Surface parking areas are subject to the following standards:

1. Access shall be limited to one driveway per street or two driveways, whichever is less.
2. All parking areas abutting a street shall be screened with plant materials or a combination of plant materials and decorative screenwalls to a minimum height of three feet.
3. Clearly defined pedestrian travel routes within the parking area shall be provided.
4. Unless herein varied, Article 14 Landscaping and Article 12 Site Plans and Site Development shall apply.

Section 1.15 Parking Structures

Parking structures are subject to the following standards:

1. The design of parking decks shall be consistent with the design of historical buildings in the area.
2. Parking structures shall be designed to have horizontal versus stepped or sloping levels at areas of public view. Ramping shall be concealed from public view to the greatest degree possible.
3. Openings shall be vertical or square in orientation and not exceed 60% of the total wall surface.
4. The upper and lowest level of parking shall incorporate sufficient screening to shield cars from public view.
5. Parapet treatment is required to terminate the deck and give proper architectural finish to the structure. Cornices, overhangs, and other devices which are consistent with the character of historical buildings in the vicinity shall be incorporated.

Section 1.16 Planning Director Exceptions

The Planning Director may vary the standards of this Zoning Ordinance provided that the following standards are met:

1. The intent of the Zoning Code is achieved;
2. The exception will not detract from the character of the sub-district;
3. Strict adherence to the architectural requirements of this Code would be impractical;
4. The exception is not in conflict with the Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for Rehabilitating Historic Buildings, as may be amended or replaced.

Section 1.17 Rules of Construction

This chapter should be liberally construed to give effect to its purpose and the purposes of the Zoning Enabling Act. If a definition is not provided, common dictionary definitions may be referred to as interpretive aids. Words used in the present tense include the future tense and the singular includes the plural unless the context clearly indicated the contrary. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.

Section 1.18 Uses Not Mentioned

When a use is not expressly mentioned in this Zoning Code, the Planning Director shall make an interpretation as to what district or districts should accommodate the use. The decision shall be based on the intent of each district, similar uses mentioned in a district, and recognized rules of interpretation. The Planning Director's decision shall be appealable to the Board of Zoning Appeals.

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Article 2 Administration, Enforcement and Penalty

Section 2.01 Land Use Permits

- A. Permit Required. A land use permit is required before a building or structure is built, rebuilt, converted, enlarged, demolished or structurally altered when such activity requires a building permit and before land clearing (as defined by this Ordinance). A land use permit is also required before a parking area is constructed, reconstructed or enlarged. Interior structural alterations for buildings that do not result in a change of use or an expansion of a non-conforming use do not require land use permits.

For buildings fully within the City limits, land use permits shall be issued by the City Zoning Administrator. For buildings fully within the Township limits, land use permits shall be issued by the Township Zoning Administrator.

The following structures straddle the municipal boundary, and permits shall be issued by the jurisdiction following the building number in parenthesis:

- 30 (Township)
- 34 (City)
- 46 (Township)
- 58 (Township)

(A) For any new construction or building expansion, land use jurisdiction shall fall to the municipality in which the majority of the building's new square footage is located.

(B) For any new construction or building expansion, land use jurisdiction shall fall to the municipality in which the majority of the building was originally located

- B. Foundation Only Approval Prohibited. In no case shall a land use permit be issued for the construction of foundations only.
- C. Application Forms. The Planning Directors shall have application forms for land use permits available at their respective office of the Planning Directors in the City of Traverse City and Charter Township of Garfield.
- D. Site Plans. All land use permit applications shall be accompanied by an accurate site plan or diagram which demonstrates that the proposed improvements comply with all applicable requirements of this Ordinance.
- E. Survey. When requested by the Planning Director, all dimensions shown on the site plan relating to the locations and size of the parcel shall be based on an actual survey and the parcel shall be staked out on the ground before construction is started.
- F. Records. The original copy of such applications and site plans shall be kept on file at the offices of the Planning Directors and a copy shall be kept at the site at all times during construction.

- G. Fees. Land use permit application fees shall be agreed upon and established by a joint resolution of the City Commission and Township Board.
- H. Consultant Review. In the course of reviewing an application for land use permit, the Planning Director or Joint Planning Commission may determine that outside consulting services such as, but not limited to, planning, engineering, traffic and environmental services, are required. Such determination shall be made at the earliest possible time based upon available information. The revelation of information during the review process shall not preclude the approval authority from halting proceedings at any time and requiring that escrow funds, in an amount determined by the approval authority to be necessary to complete a full and proper review of an application, be deposited with the reviewing authority.
- I. Expiration of Permit. Unless the land use permit states differently, a permit expires after 24 months from the date of granting such permit if the activity is not at least 75 percent completed and after 36 months if not 100 percent completed. A permit extension shall be determined and granted by the sole discretion of the Planning Directors. In the event that the Planning Directors do not agree the Joint Planning Commission shall make the determination of expiration.
- J. Revocation and Suspension. The Planning Directors may revoke any land use permit for failure to comply with any provisions of this Ordinance, the application or permit or for a material error, false statement or misrepresentation made in the application. The owner or owner's agent shall be notified of such revocation in writing. Upon such revocation, other than for the purpose of correcting the violation, all further construction activities and new use of the site shall cease. The Planning Directors may suspend any land use permit if there are reasonable grounds for revocation and may issue a stop work order to halt all construction activities and land use pending decision on revoking the permit.
- K. Relation to Non-Conforming Uses. It is not necessary for an owner of a legal nonconforming structure or use to obtain a land use permit in order to maintain its legal, nonconforming status. However, no Class I. nonconforming use shall be changed or extended until a land use permit has been issued by the Planning Directors. In such cases, the permit shall state specifically how the nonconforming use differs from the provision of this Ordinance.

Section 2.02 Improvement Guarantees

- A. Required. To ensure compliance with this Ordinance and any condition(s) imposed hereunder, the City Commission, Township Board, Joint Planning Commission, the Zoning Board of Appeals or the Planning Directors may require that a guarantee covering the estimated cost of improvements associated with a project for which zoning approval is sought be deposited with the City Treasurer or the Township Treasurer to ensure faithful completion of the improvements.
- B. Definitions. As used in this section:
1. "Guarantee" or "improvement guarantee" means a cash deposit, certified check, irrevocable bank letter of credit, or security bond in such form as determined jointly by the City and Township Attorneys.
 2. "Improvements" means those features and actions associated with a project, that are considered to be necessary by the body or officials granting zoning approval to protect natural resources or the health, safety and welfare of the residents of the Grand Traverse Commons (including the

City of Traverse City and Charter Township of Garfield) and future users or inhabitants of the proposed project area, including roadways, lighting, utilities, sidewalks, parking, screening and drainage. "Improvements" does not include the entire project which is the subject of zoning approval.

- C. Deposit. The guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City and Township may not require deposit of the guarantee before the date upon which the City and Township is prepared to issue the permit.
- D. Rebate. The Planning Directors shall establish procedures under which a cash deposit, in reasonable proportion to the ratio of work which has been completed on the required improvements, is to be rebated as work progresses. Such procedures shall be on file in the office of each of the Planning Directors. The Planning Directors may amend such procedures, but such amendments shall not affect any guarantee previously deposited with the City and Township, except upon mutual agreement of the Planning Directors, the person obtaining the permit to which the guarantee applies, and the person making the guarantee.

Section 2.03 Certificates of Occupancy

- A. Required. Certificates of occupancy shall be required for any of the following:
 - 1. Occupancy and use of a new building or of a structurally altered building;
 - 2. Change in the use of an existing building to a use of a different zoning classification;
 - 3. Occupancy and use of vacant land;
 - 4. Change in the use of land to a use of a different zoning classification; and
 - 5. Change in the use of a non-conforming use.

No such occupancy, use, or change of use shall take place until a certificate of occupancy has been issued.

- B. Temporary Certificates. Pending the issuance of a final certificate, a temporary certificate of occupancy may be issued by the Zoning Administrators. A temporary certificate shall be effective for no more than six months during the completion of construction or alterations. A temporary certificate shall not be construed as altering the respective rights, duties or obligations of the owner or of the City and Township relating to the use or occupancy of the premises or any other matter covered by this Zoning Ordinance. Temporary certificates shall not be issued except under such restrictions and provisions as will adequately ensure the safety of occupants. If a temporary certificate expires and a final certificate is not issued, the building or land shall not be occupied.
- C. Final Certificates. Final certificates of occupancy shall be issued if there has been compliance with all provisions of this Zoning Ordinance and all other applicable health, safety and welfare requirements.
- D. Land. Certificates of occupancy for the use of vacant land or for a change in the character of the use of land shall be applied for before such land is occupied or used.
- E. Statement and Record. A certificate of occupancy shall state that the building or the proposed use of the building or the land complies with this Ordinance. A record of all certificates shall be kept on file at the office of the issuing building department.

Section 2.04 Zoning Administrators

- A. Administration. The City Planning Director and Township Planning Director shall each designate an individual to act as the Zoning Administrator. The administration and enforcement of the Ordinance shall be the responsibility of the Zoning Administrators.
- B. Appearance Tickets. The Zoning Administrators or such others as designated by the City Manager and Township Supervisor, are hereby authorized to issue and serve appearance tickets with respect to a violation of this Ordinance pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCL 764.9c)2); MSA 28.868(3)(2). Appearance tickets shall be in such form as determined by the City and Township Attorneys and shall be in conformity with all statutory requirements.

Section 2.05 Fees and Deposits

At the time of a request for any zoning approval, an applicant shall pay to the City or Township Treasurer a fee as determined by joint resolution of the City Commission and Township Board. The fee shall cover the approximate cost of the procedure. In addition to any established fees, the applicant shall deposit such sum as is determined necessary by the Planning Directors to cover any extraordinary costs in processing the application.

Section 2.06 Municipal Civil Infraction

A person who violates any provision of the Ordinance is responsible for a municipal civil infraction.

Section 2.07 Declaration of Nuisances

Buildings and structures built, altered, razed or converted, or uses carried on in violation of this Ordinance are hereby declared to be a nuisance per se. Any court of competent jurisdiction may order such nuisance abated, and the owner or agent in charge of the building or land may be adjudged guilty of maintaining a nuisance per se. A person may not assert that a use is a nonconforming use or vested right, by way of defense to any Ordinance enforcement action or otherwise until that person has exhausted all administrative remedies for determination of a non-conforming use.

Section 2.08 Penalty

Whoever violates or fails to comply with any of the provision of the Ordinance shall be subject to the civil infraction sanctions, injunctive relief, nuisance abatement, surcharges and equitable remedies as available under the law, as well as any damages resulting from such violation. Each day a violation is permitted to exist constitutes a separate offense.

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Article 3 Zoning Board of Appeals

Section 3.01 Establishment

The Zoning Board of Appeals is established in accordance with Article VI. of Public Act 110 of 2006 (M.C.L. 125.3101 et seq.). The Board shall perform its duties and exercise its powers as provided by state law and this Zoning Ordinance such that the intent of this Zoning Ordinance is observed and the health, safety and welfare of the public are secured.

Section 3.02 Membership: Terms of Office.

- A. The Zoning Board of appeals shall consist of five (5) members.
 1. The City Commission shall appoint two (2) members from the City Board of Zoning Appeals
 2. The Township Board shall appoint two (2) members from the Township Zoning Board of Appeals
 3. One member of the Zoning Board of Appeals shall be appointed jointly by the City Commission and Township Board and shall be a registered elector of the City or Township **residing within the zoning jurisdiction of the Grand Traverse Commons**. The members elected shall be representative of the population distribution of the various interests present in the local unit of Government.
- B. Terms shall be overlapping to provide for the appointment of an equal number of members each year. A successor member must be appointed within one month following the expiration of the previous term. At least one member shall also be a member of the Joint Planning Commission. Terms shall be three years in length.
- C. The City Commission and Township Board shall also each appoint one alternate member for terms of three years each. An alternate member may be called by the Chairperson of the Board, the Planning Directors or the Zoning Administrators to sit as a regular member of the Board in the absence of a regular member if a regular member is unable to attend a regularly scheduled meeting, or if a regular member has abstained from a decision for reason of conflict of or interest.
- D. An alternate member appointed to hear an appeal shall serve on the appeal until a final decision has been made. Such alternate member shall have the same voting rights as a regular member of the Board
- E. Absence, inability to attend or abstention because of a conflict of interest may be established by communication of a Board member at least twenty-four hours prior to the regularly scheduled Board meeting.

Section 3.03 Meetings

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public. The Board shall adopt its own rules of procedure and shall keep a public record of its proceedings showing the action of the Board and the vote of each member upon each question considered. The presence of three (3) members shall be necessary to constitute a quorum and a majority vote of the members of the

Board shall be necessary to reverse an order, requirement, decision or determination of an administrative official or to decide in favor of the applicant in the case of a variance, exception or interpretation.

Section 3.04 Rules of Procedure

The Zoning Board of Appeals shall follow such procedures as are established by statute, ordinance and resolution of the Board. These procedures shall include:

- A. Appeals Generally. For purposes of these rules of procedure, an appeal shall include all applications for appeals, interpretations, variances, exceptions and matters involving nonconforming uses.
- B. Initiating Appeals. Appeals shall be filed with each of the Zoning Administrators within twenty-one days after written notice has been given of the action being appealed. Following receipt of a written appeal request, the Zoning Board of Appeals shall fix a reasonable time for the hearing of the request.
- C. Application Contents. In addition to all other requirements of this statute and ordinance, applications shall be in a form determined by the Zoning Administrators and shall contain such information as the Zoning Administrators shall direct. Such applications shall also include the following:
 1. A site plan or site diagram reflecting accurate dimensions of the property, the location of structures on the property and the location of buildings on adjacent properties. If requested by the Board or the Zoning Administrators, such drawing shall be a survey performed by a registered land surveyor.
 2. The name, address and telephone number of the applicant and all authorized agents of the applicant.
 3. The application must be signed by the owner or someone acting upon written consent of the owner, which written consent must be submitted with the application.
 4. A listing of all previous appeals involving the property noted on the application as to the subject, date and outcome of the appeal.
- D. Filing Fee. The filing fee for appeals shall be established by joint resolution of the City Commission and Township Board.
- E. Notices. Notice of an appeal will be given pursuant to State statute. Such notice shall be mailed or delivered at least fifteen days prior to the first meeting of the Board at which time the appeal will be formally considered.
- F. Advertisements. One advertisement in a local newspaper of general circulation indicating the nature of the appeal and the date of the hearing will be placed at least 15 days before the hearing. A minor deviation in the notice published in the newspaper or in the time of appearance of such notice in the newspaper shall not affect the validity of the proceedings of the Board unless there is a clear demonstration of prejudice as a result of such minor deviation.
- G. Regular Meetings. The Board's regular meeting schedule shall be adopted and published on an annual basis.

- H. Exceptions to Regular Meeting Dates. If a quorum of the members is not present or anticipated, then the regular meeting may be canceled and the matter rescheduled to the next regularly scheduled meeting or to the earliest possible date as determined by the Chairperson of the Board. If no requests have been received 21 days prior to the date of a regularly scheduled meeting, the meeting may be canceled by the Zoning Administrators.
- I. Conflict of Interest. Before deliberating any appeal, the Chairperson shall ask if any member has such a conflict of interest. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- J. Representation at Hearing. The applicant or the applicant's authorized agent must be present at the public hearing to properly answer questions concerning the appeal. At the discretion of the Board, if the applicant or agent is not present the appeal may be deferred until the next meeting or dismissed.
- K. Reconsideration. An applicant may re-appeal a decision after twelve months from the decision of the Board. The Board will not reconsider any appeal within twelve months from the date of the decision unless the applicant can show that there have been substantially changed circumstances affecting the appeal, which circumstances were not known to the Board at the previous hearing. The substantial change in circumstances shall be described, in writing, by the applicant at the time of the application. Before rehearing the matter, the Board shall decide whether there is a substantial change in circumstances allowing the rehearing.
- L. Instructions. The Zoning Administrators shall prepare a written description of the procedures of the Board and instructions to all potential applicants. Such written instruction shall be submitted to the Board for its approval prior to public distribution.
- M. Other Rules. The Board may adopt such other rules to govern its procedure as it deems advisable, provided such rules are not in conflict with statute or ordinance.

Section 3.05 Powers and Duties.

- A. Generally. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property or make any change in the terms of intent of this Ordinance. The Board shall have the power to act on those matters where this Ordinance provides for an appeal, interpretation, variance or exception. The Zoning Board of Appeals shall not have the power to vary a standard for a Special Land Use Permit.
- B. Appeals. The Board shall hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, decision or determination made by the administrative official or body charged with the enforcement of this Ordinance.
- C. Interpretations. Upon application by a City or Township official or person of interest in a specific affected parcel of land, when all other administrative appeals have been exhausted, the Board shall have the power to:
 - 1. Interpret this Zoning Ordinance in such a way as to carry out its intent and purpose;
 - 2. Determine the precise location of a zoning district and special area boundaries;
 - 3. Classify a use which is not specifically mentioned, determine the district within which the use is permitted, and determine the necessary parking to support the use; and

4. Determine the off-street parking and loading requirements of this Zoning Ordinance.
- D. Variances. The Board shall have the power to authorize specific variances or departures from this Ordinance if all of the basic conditions are satisfied and if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance. A variance from the dimensional requirements of this Ordinance may only be granted if it is determined that all basic conditions have been satisfied and that there is a practical difficulty in carrying out the requirement. A variance from the use requirements of this Ordinance shall be prohibited.
1. Basic Conditions. Any variance granted from the Zoning Ordinance shall meet the following basic conditions:
 - a. The spirit of this Ordinance shall be observed, public safety secured and substantial justice done.
 - b. There is no substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
 - c. The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.
 - d. The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general neighborhood and shall apply only to property that is under the control of the applicant.
 - e. It shall be necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
 - f. There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Ordinance.
 - g. The alleged hardship or difficulty is not solely economic and is based on the reasonable use of a particular parcel of land.
 - h. It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privity or in concert with the applicant.
 2. Practical Difficulties and Unnecessary Hardships. In order to determine if there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance the following shall apply:
 - a. Dimensional Variance. A practical difficulty shall exist where there are exceptional or extraordinary circumstances or physical conditions, such as narrowness, shallowness, shape or topography of the property involved, that do not generally apply to other property or uses in the same zoning district.
 - b. Use Variance. An unnecessary hardship shall exist where the property considered in combination with other land owned by the applicant adjacent thereto has no reasonable value as zoned.
- E. Exceptions. The Board shall have the power to grant the following exceptions:
1. Extend a district where the boundary line of a district divides a lot of record in single ownership at the time of adoption of this Ordinance.
 2. Interpret or apply the Ordinance where the street layout on the ground actually varies from the street layout as shown on the District Map.
 3. Permit the alteration or enlargement of an existing building associated with a building associated with Class I. nonconforming use (*as defined in Article 13 of this Ordinance*), or permit the increase in intensity of use of a Class I. nonconforming use, where:

- a. The change will not unreasonably delay future probability of compliance with this Ordinance.
 - b. There will be greater compliance with this Ordinance or, in the alternative, with the Building Code or other applicable ordinances if the change is permitted, and such compliance is the maximum which can be reasonably expected.
 - c. The change will not detract from any historical or unique architectural qualities of the building.
 - d. The change will not be detrimental or tend to alter the character of the campus.
4. Permit a change in use of a Class I. nonconforming use (*as defined in Article 13 of this Ordinance*) to another nonconforming use which is more nearly conforming to the use restrictions of this Ordinance. Such a change in use may be permitted only where:
- a. The change in use will not unreasonably delay future probability of compliance with this Ordinance.
 - b. There will be greater compliance with this Ordinance if the change is permitted, and such compliance is the maximum which can reasonably be expected.
 - c. The change will not be detrimental to the campus or tend to alter the character of the campus.

After a change in use has been permitted, the use shall not be changed back to the former nonconforming use or to any less conforming use.

Section 3.06 Time Limitations of Orders.

- A. Building Alterations. An order of the Zoning Board of Appeals permitting the erection or alteration of a building is valid for no longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- B. Uses. An order of the Board permitting the use of a premises is valid for no longer than one year unless such use is established within such period. However, where such permitted use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained within such period and as such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- C. Modification. Time limits established by this section may be lengthened or shortened by the Board as a condition imposed under the standards for conditions set forth in this Ordinance.
- D. Expiration. In addition to any expiration provision contained in an order itself, an order of the Zoning Board of Appeals may be declared by the Zoning Administrators to be expired where there has been a change in a material circumstance of facts such as, but not limited to, destruction of a building or natural feature, vacation of a street or a change in topography upon which the order was issued. Before so declaring an order expired, the Zoning Administrators shall notify the landowner and, if requested, shall conduct a hearing with notice and procedures as practical.

Section 3.07 Court Review.

- A. Circuit Court Review. A decision of the Zoning Board of Appeals shall be final. However, any party having a substantial interest affected by an order, determination or decision of the Zoning Board of

Appeals may appeal to the Circuit Court if made to the Court within thirty (30) days after the Zoning Board of Appeals certifies its decision in writing signed by the Chairperson or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of its decision or upon a grant by the Court of leave to appeal.

- B. Standards for Review. The Circuit Court shall review the record and decision of the Board of Zoning Appeals to insure that the decision:
1. Complies with the constitution and laws of the State;
 2. Is based upon proper procedure;
 3. Is supported by competent, material, and substantial evidence on the record; and
 4. Represents the reasonable exercise of discretion granted by the law to the Zoning Board of Appeals.
- C. Inadequate Record. If the Court finds the record of the Zoning Board of Appeals inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Zoning Board of Appeals, the Court shall order further proceedings before the Zoning Board of Appeals on conditions which the Court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm its original decision. The supplementary record and decision shall be filed with the Court. The Court may affirm, reverse or modify the decision.

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Article 4 Zoning Districts, Boundaries and Map

Section 4.01 Designation of Districts

The Grand Traverse Commons is divided into the following zoning districts and sub-districts:

Village District:

- [V-1 Sub District](#)
- [V-2 Sub District](#)
- [V-3 Sub District](#)
- [V-4 Sub District](#)
- [V-5 Sub District](#)
- [V-6 Sub District](#)
- [V-7 Sub District](#)
- [V-8 Sub District](#)

Medical District:

- [M-1 Sub District](#)
- [M-2 Sub District](#)
- [M-3 Sub District](#)
- [M-4 Sub District](#)
- [M-5 Sub District](#)
- [M-6 Sub District](#)
- [M-7 Sub District](#)
- [M-8 Sub District](#)

Institutional District:

- [I-1 Sub District](#)
- [I-2 Sub District](#)
- [I-3 Sub District](#)

Residential District:

- R Sub District

Recreation and Cultivation District:

- C Sub District

Conservation and Recreation District:

- CR Sub District

Section 4.02 Zoning Map

The boundaries of the districts are shown on the map adopted by the City Commission and Township Board designated as the Zoning Map. Such Map is filed in the offices of the City and Township Clerks. The Zoning Map and all notations, references and other information shown thereon are hereby declared to be part of this

Zoning Code and shall have the same force and effect as if the Zoning Map and all notations, references and other information shown thereon were fully set forth and described herein.

Section 4.03 Zoning Map Boundary Determination

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning Map, the district boundary line shall be determined by use of the scale appearing on the Zoning Map.

Section 4.04 Zoning of Water Areas

All areas in the Grand Traverse Commons which are under water and not shown, as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins two or more districts, the boundaries of each district shall be construed to extend to the center of the water area

Section 4.05 Zoning of Annexed Land

The zoning of annexed land is governed by State statute MCL 117.4(i)(3): MSA 5.2082

Section 4.06 Categories Within Zoning Districts

Any building or structure built, rebuilt, converted, enlarged, moved or structurally altered shall be used only for a use allowed in the district in which the building or structure is located. In order to ensure all possible benefits and protection for the zoning districts in this code, the land uses have been classified into two categories:

- A. Uses Permitted by Right. The primary uses and structures specific for which the zoning district has been established.
- B. Uses Permitted by Special Use Permit. Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zoning district, but could present potential injurious effects upon the primary uses and structures within the zoning district and, therefore, require special consideration in relation to the welfare of adjacent properties and the Grand Traverse Commons as a whole.

Section 4.07 Incorporating Uses Allowed

When the regulations of a zoning district incorporate the uses of a different zoning district, only those uses listed in the sections entitled "Uses Allowed by Right" are incorporated and not any of those uses allowed by special land use permit or any other special zoning permission.

Section 4.08 Uses Not Mentioned

When a use is not expressly mentioned in this Zoning Code, the Planning Directors shall make an interpretation as to what district or districts should accommodate the use (if any). The decision shall be based on the intent of each district, similar uses mentioned in a district, and recognized rules of interpretation. The decision of the Planning Directors shall be appealable to the Zoning Board of Appeals.

Section 1.12 Fences

Fencing and screen walls shall generally reflect the characteristics shown in the images below in terms of materials, colors, height and design for the various districts. Wood, metal, stone are acceptable materials. Any fence taller than 6 feet requires Planning Commission approval.

Village District



Residential District



Medical District



Institutional District



Recreation and Cultivation District



Conservation / Recreation District

