

ARTICLE I. - ADMINISTRATION

SEC. 40-100. - SHORT TITLE.

This chapter shall be known as the "City of Grand Haven Zoning Ordinance" and will be referred to hereinafter as "this ordinance."

SEC. 40-101. - PURPOSE AND INTENT.

The Grand Haven Zoning Ordinance is hereby established in accordance with the policies, goals and objectives of the city as expressed from time to time in the City of Grand Haven Comprehensive Plan. The illustrations, text, maps, tables, and schedules contained herein shall constitute this ordinance. Said ordinance is expressly adopted for the following purposes:

- A. To promote and protect the public health, safety, and general welfare;
- B. To encourage the use of lands and natural resources in accordance with their character and adaptability;
- C. To establish standards for the form and arrangement of buildings, structures and site improvements;
- D. To implement the goals, objectives, and future land use recommendations of the city comprehensive development plan (master plan) and to regulate the intensity of land use and parcel areas in a manner compatible with said plan;
- E. To determine the area of open spaces surrounding buildings and structures necessary to provide adequate light, scenic views and air and to protect the public health;
- F. To protect the character and stability of the recreational, residential, commercial and industrial areas within the City of Grand Haven and promote the orderly and beneficial development of the city;
- G. To lessen and avoid congestion on the public highways and streets;
- H. To provide for the needs of recreation, residence, commerce, and industry in future growth;
- I. To prevent such additions or alterations or remodeling of existing structures in such a way as to avoid the regulations and limitations imposed hereunder;
- J. To reduce the risk of fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards to life and property;
- K. To prevent improper uses of land and the overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each district;
- L. To provide for the completion, restoration, reconstruction, and extension of nonconforming uses;
- M. To create an appeals board and to define the powers and duties thereof;

- N. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this ordinance and provide penalties for the violation of this ordinance;
- O. To provide for the payment of fees for land use permits and escrow accounts to support the expense of administration and proper review of applications for land use permits;
- P. To ensure that a variety of housing types and sizes can be developed to meet the needs of the entire community;
- A. To preserve and protect the city's wetlands, ravines, rivers, dunes, shoreline and other natural spaces;
- B. To accomplish any other purposes contained in Public Act 110 of 2006, as amended.

SEC. 40-102. - REGULATION OF FORM.

Within certain portions of the city, it shall be the purpose of this ordinance to establish standards and regulations to guide the placement of buildings and structures, the nature and form of site improvements and landscaping, the form and materials of buildings and related measures to promote and strengthen the defined character of certain neighborhoods. It is hereby determined that the form and development of particular neighborhoods contribute to the unique and desirable characteristics of the city and the measures set forth herein are necessary and appropriate to promote and strengthen such characteristics.

SEC. 40-103. - CITY CODE.

This ordinance shall be cited in general as chapter 40 of the Codified Ordinances of Grand Haven, Michigan.

SEC. 40-104. - PROJECTS IN PROGRESS.

Approvals granted to projects in progress or under construction under the previous City of Grand Haven Zoning Ordinance (chapter 40) shall be valid and enforced under the ordinances that were applicable at the time of approval, until such development is complete or such approval has expired. Once a site plan or other approval is completed or has expired, any subsequent submittal shall conform with the terms of this zoning ordinance. The adoption of this ordinance shall not prevent or bar the continuation or institution of proceedings for offenses heretofore committed in violation of any previously existing ordinances.

SEC. 40-105. - CONFLICTING REGULATIONS OR STANDARDS.

Whenever any provision of this ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this ordinance shall govern, whenever the provisions of any other law or ordinance imposes more stringent requirements than are imposed or required by this chapter, then the provisions of such law or ordinance shall govern.

SECS. 40-106—40-107. - RESERVED.

SEC. 40-108. - GENERAL REVIEW CRITERIA.

In any review and in taking any action or making any decision required or permitted under this ordinance, the zoning administrator, building official, planning commission, zoning board of appeals, city council and any other city official, representative or consultant shall consider the following criteria, when applicable:

- A. Whether the streets and highways, water distribution lines and facilities, sanitary sewer collection lines and facilities, stormwater facilities, electrical utility lines, communications lines and equipment, sidewalks and other pedestrian access, and other infrastructure as they now exist and may be modified as part of or in conjunction with proposed project or action are reasonably sufficient for the needs existing and planned uses in the city as a whole, the existing and planned uses in the vicinity of the site, and the existing and planned uses on the site, including during times of reasonably foreseeable strains on such infrastructure due to reasonably frequent weather events, special community-wide events, anticipated construction activity, or similar causes.
- B. Whether the buildings, structures, and entrances thereto proposed to be located upon the site are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
- C. Whether natural features of the landscape are retained, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of stormwaters.
- D. Whether there are any adverse effects of the proposed development, its uses and any activities emanating therefrom upon owners, occupants, residents, and uses of nearby property.
- E. Whether the proposed development and uses comply with other city ordinances.
- F. Whether the proposed buildings and other structures on and uses of the site will be compatible with those on nearby property.
- G. Whether the proposed buildings and other structures on and uses of the site will generally support and advance the policies and objectives of the city's master plan.
- H. Whether the proposed buildings and other structures on and uses of the site will comply with applicable laws, rules, regulations, permit and license requirements, orders and directives of other governmental agencies or officials of competent jurisdiction. There is no affirmative duty to make this determination. However, if it seems that violations are likely to result or exist, such likely violations can and should be considered.
- I. Whether all buildings and structures are reasonably accessible to emergency vehicles.
- J. Whether the buildings and structures on the site are accessible for regular maintenance, repair and improvement.

- K. Whether the layout and location of any publicly owned utilities, roads, sidewalks or other infrastructure on the site allow for reasonably normal operation, use, maintenance, repair, replacement and improvement including snow removal and storage.
- L. Whether the proposed development is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.
- M. Whether the development provides open areas, green space and other areas.
- N. Whether the development accommodates sight lines and preserves views that are key assets of the community and its character.
- O. Whether the development will be a significant asset to the community's economic development.
- P. Whether the development includes "best management practices" and "Green" designs and construction materials and methodologies.

SEC. 40-109. - GRAPHICS, TABLES AND TEXT, OTHER ELEMENTS.

The graphics, tables, and text used throughout this ordinance are regulatory. In case of a conflict, text shall control over tables or graphics; tables shall control over graphics. Photographs and illustrations marked "example" or text marked "commentary" is not regulatory and is provided for illustrative purposes only.

SEC. 40-110. - SCOPE OF REGULATIONS.

The use and form of all land and structures and the construction, reconstruction, alteration, repair and moving of all structures within the City of Grand Haven shall conform with all applicable provisions of this ordinance, unless the nonconformance is a matter of record on the effective date of this ordinance.

SEC. 40-111. - NONCONFORMANCE.

Sec. 40-111.01. - Scope and intent.

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformance with the provisions of this chapter. It is the intent of this chapter to permit legal nonconforming lots, structures, or uses to continue until they are brought into conformity, removed, extinguished, or forfeited.

It is recognized that there exists within the districts established by this chapter and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to March 16, 2007 and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Sec. 40-111.02. - Nonconforming lots.

- A. *Lots of record.* Any platted and/or recorded lot of record existing as of the effective date of this ordinance may be used for any principal use permitted in the district in which the lot is located, other than special land uses for which special lot area requirements are specified in this chapter, whether or not such lot complies with the lot area and width requirements of this chapter. Such use may be made provided that all requirements other than lot area and width prescribed in this chapter are complied with, and provided that not more than one dwelling unit shall occupy any lot except in conformance with the provisions of this chapter for required lot area for each dwelling unit.
- B. *Combining nonconforming lots.* If two (2) or more lots or combinations of lots and portions of lots with continuous frontage and in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved may be combined to create a conforming lot or a lot with a lesser degree or extent of nonconformity.

Sec. 40-111.03. - Nonconforming uses of land.

Where, at the effective date of adoption or amendment of this chapter lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

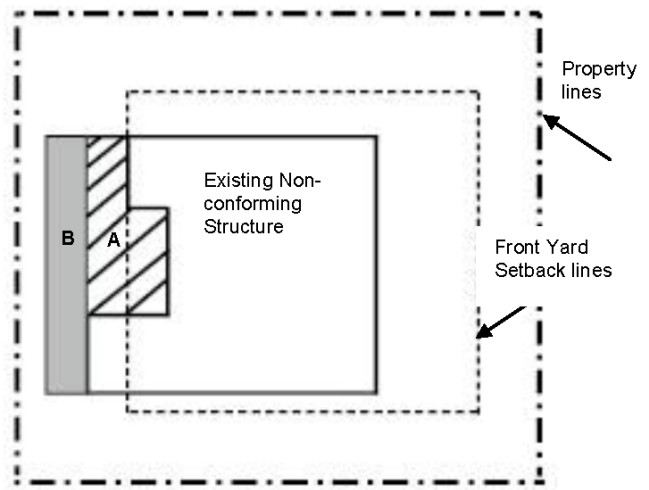
- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter, unless so doing shall make the use less nonconforming.
- C. If such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- D. Work may be undertaken to renovate and/or modernize nonconforming uses, including structural changes in a building or structure containing a nonconforming use, provided that such renovations or modernization (1) occurs only on the inside of the building or structure, and (2) does not result in an unreasonable increase in intensity of the nonconforming use.
- E. Additions, enlargements, and exterior improvements to a building containing a nonconforming residential use may be permitted provided that the number of bedrooms or residential units within the building is not increased and that all other provisions of this Ordinance are met.

Sec. 40-111.04. – Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, parking, or other characteristics of the structure or its location on the lot, including restrictions on site and building placement, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way that increases the degree of its nonconformity. However, structures may be enlarged in a way that does not increase the degree of its nonconformity with regard to its side and rear setbacks or building form, provided that structures shall be a minimum of three (3) feet from property lines. For the purposes of this section, the degree of the nonconformity refers to:
 1. Enlarging any portion of the existing structure which is located in a required yard in the direction of the adjoining property line, and/or
 2. Increasing the height of any portion of a structure such that it would exceed the height limits of the district.



Alteration "A" does not increase the degree of nonconformity and would be permitted. Alteration "B" increases the degree of nonconformity and is prohibited.

- B. In all districts except OT, S, E, DR and NS, should such structure be destroyed by any means to an extent of more than sixty (60) percent of its replacement cost, exclusive of

the foundation, at the time of destruction, it shall be reconstructed only in conformity with the provisions of this chapter. Within the OT, S, E, DR and NS districts where many substandard conditions exist, such a residential structure destroyed by any means, to an extent of more than sixty (60) percent of its replacement cost, exclusive of its foundation, may be reconstructed on its former footprint and at its previous roof height, style, orientation and pitch such that either matches the former building despite any previously nonconforming conditions, or that conforms to the requirements of the district.

- C. A structure incorporating building form elements as regulated in article IV hereof, which fail to meet the requirements of the zoning district, shall not be considered nonconforming for the purposes of this ordinance. Provided, however, that any improvements to such a structure which involve any nonconforming building form elements shall incorporate measures to reduce, eliminate or mitigate such nonconforming conditions; except upon a finding by the planning commission, if subject to planning commission review, or by the zoning administrator if subject to zoning administrator review, that such measures would be impractical.
- D. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Sec. 40-111.05. – Nonconforming uses of structures and land.

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this chapter that would not be permitted in the district under the terms of this chapter the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions, and as otherwise set forth in this ordinance:

- A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification provided that the zoning board of appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the zoning board of appeals may require conditions and safeguards in accord with the purpose and intent of this chapter. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.

- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- E. When a nonconforming use of a structure, or structures and land in combination, is discontinued or ceases to exist for twelve (12) consecutive months or, for twenty-four (24) months during any three-year period, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excluded from this provision.
- F. Where nonconforming use status applies to a structure and land in combination, removal, or destruction of the structure shall eliminate the nonconforming status of the land.
- G. Except for circumstances described in subsection C, when a nonconforming structure within the OT, S, E, DR or NS district is reconstructed as permitted by section 40-111.04.B, any nonconforming residential use of that structure and land may be continued as if there were no disruption in that use.
- H. A legal nonconforming use is permitted to have signage consistent with legal conforming uses in the respective zoning district and shall not be considered an expansion of the nonconforming use. In the event the legal nonconforming use ceases to operate, signage associated with the use must be removed immediately.

(Ord. No. 15-08, § 1, 10-19-15; Ord. No. 17-10, § 1, 12-18-17)

Sec. 40-111.06. – Repairs and maintenance of nonconforming uses.

On any building or parcel devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided that the cubic content of the building or parcel as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof, or parcel declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sec. 40-111.07. – Change of tenancy or ownership.

A change of tenancy, ownership, or management of any existing nonconforming uses of land, of structures, or of structures and land in combination, shall be permitted.

Sec. 40-111.08. – Nonconforming short-term rental uses.

- A. *Nonconforming short-term rental uses permitted* .When a lawful short-term use existed at the effective date of an amendment to this chapter and is not permitted under the terms of the amendment, the use may be continued as a nonconforming use so long as it remains otherwise lawful and complies with the provisions of this section.

- B. *Examples* . By way of example only, the following uses are nonconforming:
1. A short-term rental use that lawfully existed without a special use permit in a zoning district where a special use permit is now required.
 2. A short-term rental use that lawfully existed in a zoning district where short-term rentals are now prohibited.
 3. A short-term rental use that lawfully existed in a dwelling where the underlying residential use was nonconforming, before the city prohibited short-[term] rental uses in such dwellings.
- C. *Regulations* . Notwithstanding any other provision of this chapter:
1. The ability to operate a nonconforming short-term rental use is not impaired by the making of modifications, improvements, or repairs to the structure or land where the use is located. However, if the underlying residential use is nonconforming, the underlying use may be impaired by such activities as provided in sections 40-111.03 and 40-111.05.
 2. The ability to operate a nonconforming short-term rental use is not impaired by any transfer of ownership or control of the property. Owners are responsible for transferring short-term rental certificates in accordance with the processes provided in chapter 9 of the Code of Ordinances.
 3. A short-term rental use shall be deemed abandoned if: (a) the short-term rental certificate for the property expires, terminates, or becomes invalid, and (b) a new certificate or renewal certificate is not obtained within twelve (12) months of the expiration, termination, or invalidation. An abandoned short-term rental use cannot be resumed as a nonconforming use.
 4. Notwithstanding subsection C.3, the ability to operate a nonconforming short-term rental use is not impaired by the demolition of the structure in which the use is located, so long as: (1) there is a valid short-term rental certificate in effect at the time of the demolition, and (2) a short-term rental certificate is obtained for the newly constructed dwelling on the property within eighteen (18) months of the date of the demolition permit.

(Ord. No. 17-01, § 1, 4-24-17)

SEC. 40-112. – ZONING ADMINISTRATOR.

The city manager shall designate an individual to serve as the zoning administrator to administer and enforce this ordinance. The zoning administrator may delegate duties to such other persons as the city manager may assign to assist.

Sec. 40-112.01. – Duties and limitations of the zoning administrator.

- A. The zoning administrator shall have the authority to grant land use permits and to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this ordinance.

- B. It shall be unlawful for the zoning administrator to approve any plans or issue a land use permit for any excavation or construction or use until such plans have been reviewed in detail and are found to be in compliance with this ordinance. To this end, the zoning administrator shall require that an application for a land use permit for excavation, construction, moving, alteration, or change in type of use or type of occupancy, shall, where required by this ordinance, be accompanied by a site plan, in accordance with section 40-115 hereof.
- C. If the proposed excavation, construction, moving or alteration, or use of land as set forth in the application, and site plan, when required, is in conformity with the provisions of this ordinance, the zoning administrator shall issue a land use permit. If an application for such permit is not approved, the zoning administrator shall state in writing the cause for such disapproval.
- D. The zoning administrator may, but shall not be required to, accept a preliminary application and an incomplete submittal where a basic clarification is desired prior to proceeding with further technical work; and the zoning administrator may on such preliminary submittal take the formal action of tentative denial or tentative approval. Provided, that the applicant shall be advised, in writing, that such tentative denial or approval may be overturned by the planning commission.
- E. Issuance of a land use permit shall in no case be construed as waiving any provisions of this ordinance. The zoning administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this ordinance to any person making application to excavate, construct, move, alter, or use buildings, structures, or land. The zoning administrator shall have no authority to make changes to this ordinance or to vary the terms of this ordinance in carrying out his or her duties. During times of emergency, for example emergency declarations at any level, civil unrest, or natural disaster, staff is enabled to make temporary exceptions to specific dimensional, procedural, temporal or other requirements contained in the Zoning Ordinance. Such exceptions shall:
1. be reported to the Planning Commission for informational purposes only at the next regular or special meeting, and
 2. be directly related to carrying on peaceful, uninterrupted and reasonable uses of land during the time of emergency, and
 3. continue in effect no longer than necessitated by the conditions brought on by the emergency, and
 4. demonstrably relieve applicant from damaging conditions, and
 5. not create any legal nonconforming status related to use or structure, and
 6. include a statement summarizing that the conditions are unique, the circumstances are temporary and the relief granted serves the preservation of the safety and well-being of the public.

- F. The zoning administrator shall not refuse to issue a land use permit when the applicant has complied with all applicable conditions required by this ordinance. Violations of contracts such as covenants or private agreements which may result upon the granting of said permit are not cause for refusal to issue a permit.

Sec. 40-112.02. – Land use permit.

- A. It shall be unlawful to commence the excavation or site work for or the construction of any building or other structure, including an accessory structure, or to commence the moving, or structural alteration, including an accessory structure, costing more than one hundred dollars (\$100.00) or exceeding one hundred (100) square feet in floor area, until the zoning administrator has issued for such work a land use permit including a certification of his/her opinion that plans, specifications, and intended use of such structure do in all respects conform to the provisions of this ordinance.
- B. It shall be unlawful to alter the contour of land, remove or damage wetlands or sensitive areas, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the zoning administrator has issued for such intended use a land use permit.
- C. In all cases where a building permit is required, application for a land use permit shall be made coincidentally with the application for a building permit and in all other cases shall be made not less than ten (10) days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. This application shall be made in writing to the zoning administrator and shall provide all relevant project information. A record of all such applications shall be kept on file by the zoning administrator.
- D. Any land use permit issued under the provisions of this ordinance shall be valid only for a period of one year following the date of issuance thereof. Any project which has not substantially commenced within the one-year period may not be started or continued unless the permit is reissued or extended or a new land use permit is issued.
- E. When the zoning administrator receives an application for a land use permit, which requires a special land use approval, variance, or other approval, he shall so inform the applicant.
- F. Before any land use permit shall be issued, an application and inspection fee and any required escrow fees shall be paid. The amount of such fees and escrows shall be fixed by a schedule established by resolution of the city council.
- G. No building or structure or use for which a land use permit has been issued shall be used or occupied until after a final inspection has been performed which indicates that all the provisions of this ordinance are met and a certificate of occupancy has been issued by the building official. The issuance of a certificate of occupancy shall in no case be construed as waiving any provisions of this ordinance.

SEC. 40-113. – ZONING BOARD OF APPEALS.

Sec. 40-113.01. – Establishment.

There is hereby established a zoning board of appeals in accordance with Act 110 of the Public Acts of Michigan of 2006, as amended. The zoning board of appeals shall perform its duties and exercise its powers as provided by said Act, as amended, and in such a way that the objectives of this ordinance may be equitably achieved; that there shall be provided a means for competent interpretation and controlled flexibility in the application of this ordinance; that the health, safety, and welfare of the public be served; and that substantial justice be secured.

Sec. 40-113.02. – Membership, Terms of Office.

The zoning board of appeals shall consist of seven (7) members appointed by the city council. At least one member of such board shall be a member of the planning commission, and the commissioner's term on the board shall be co-terminus with the member's term on the planning commission. The members selected shall be representative of the population distribution and of the various interests present in the city. An elected officer of the city shall not serve as chair of the zoning board of appeals.

The total amount allowed the zoning board of appeals in any one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which sum may be appropriated annually in advance by the city council. Members of the zoning board of appeals shall be removable by the city council for non-performance of duty or misconduct in office upon written charges and after public hearing. Members shall disqualify themselves from a vote in which they have conflicts of interest. Failure of a member to disqualify oneself from a vote in which there is a conflict of interest shall constitute misconduct in office.

The term of each member shall be for three (3) years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. The mayor and city council shall seek to stagger the expiration dates of members of the zoning board of appeals so at least one member's term expires each year and to achieve a reasonable degree of continuity of membership from one year to the next. With approval of council, the mayor shall appoint at least two (2) alternate members, who shall serve for three (3) years.

Sec. 40-113.03. – Meetings.

Meetings of the zoning board of appeals shall be held at the call of the chair and at such other times as the board in its rules of procedure may specify. The chair or in his absence, the acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the zoning board of appeals shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the city clerk and shall be a public record. The board shall not conduct business unless a majority of the members of the board are present. All meetings of the zoning board of appeals shall comply with the requirements of Act 267 of 1976, as amended. A public hearing shall be required for appeals, interpretations, variances, and all other matters upon which the zoning board of appeals is authorized to act. Notice of a public hearing shall be provided pursuant to section 40-122 hereof.

Sec. 40-113.04. – Rules, hearing and decisions of appeals, right to and grounds of appeal.

The zoning board of appeals shall act upon all questions within its authority as they may arise in the administration of this ordinance, including the interpretation of the zoning maps, and may fix rules and regulations to govern its procedures. The concurring vote of a majority of the members of the zoning board of appeals shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of an applicant any matter upon which they are required to pass under this ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the city, county, or state. The grounds of every determination shall be stated.

Sec. 40-113.05. – Time to and notice of appeal: Transmission of record.

Such appeal shall be taken within such time as shall be prescribed by the zoning board of appeals by general rule, by the filing with the city clerk, the zoning administrator or other officer from whom the appeal is taken and with the zoning board of appeals of a notice of appeal specifying the grounds thereof together with a fee established by the city council which shall be paid to the zoning administrator at the time the notice of appeal is filed. The officer from whom the appeal is taken shall forthwith transmit to the zoning board of appeals all the papers constituting the record upon which the action appealed was taken.

Sec. 40-113.06. – Stay of proceedings pending appeal.

An appeal shall stay all proceedings in furtherance of the action appealed, except as provided herein. Proceedings shall not be stayed in the event the officer from whom the appeal is taken certifies to the zoning board of appeals, after the notice of appeal is filed, that a stay would cause imminent peril to life or property. The zoning board of appeals or the circuit court may issue a restraining order to re-institute a stay on application and notice to the officer from whom the appeal is taken with due cause shown.

Sec. 40-113.07. – Hearings, and notices, right to be heard, disposition of appeals, decision not final.

The zoning board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof in accord with section 40-122, hearing notice requirements hereof. Upon hearing, any party may appear in person or by agent or by attorney. The zoning board of appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises. Where there are practical difficulties in the way of carrying out the strict letter of this ordinance, the zoning board of appeals shall have the power, in passing upon appeals, to vary or modify any of its rules, regulations or provisions so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done. The decision of the zoning board of appeals shall be final, unless any person having an interest affected by this ordinance shall appeal said decision to the circuit court.

Sec. 40-113.08. – Duties and powers.

The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this ordinance,

but does have power to act on those matters where by statute or this ordinance provision is made for an administrative review, interpretation, variance or exception as defined therein.

- A. *Appeals*. The Zoning Board of Appeals shall herein decide appeals from, and review any order, requirements, decision, or determination made by, an administrative official charged with enforcement of this ordinance and any other ordinance adopted pursuant to the Michigan Zoning Enabling Act, Act 110 of 2006, as amended. It shall also herein decide all matters referred to it or upon which it is required to pass under this Ordinance.
- B. *Interpretation*. The zoning board of appeals shall have the power to:
 - 1. Interpret, upon request, the provisions of this ordinance in such a way as to carry out the intent and purpose of the ordinance and in accordance with applicable law.
 - 2. Determine the precise location of the boundary lines between zoning districts.
- C. *Variances*. The board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height regulations, yard and depth regulations, and off-street parking and loading space requirements provided it finds that all of the basic conditions set forth herein can be satisfied. The appellant shall submit, along with the established fee and other materials, a narrative demonstrating why a variance is sought.
 - 3. *Basic conditions*. The board shall find that a variance request meets all of the following conditions.
 - a. The requested variance shall not be contrary to the public interest or to the intent and purpose of this ordinance.
 - b. The requested variance shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a special land use permit is required.
 - c. The requested variance shall not cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located.
 - d. The conditions or situation of the property or its intended use is not so general or recurrent a nature as to make reasonably practicable a general regulation for the condition or situation.
 - e. Any exceptional or extraordinary circumstances applying to the property in question are not self-created.
 - f. There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.
 - g. The requested variance is the minimum variance that will make possible the reasonable use of the improvement.

4. *Rules.* The following rules shall be applied in the granting of variances:
- a. The board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this ordinance. The breach of any such condition shall automatically invalidate the permit granted.
 - b. Each variance granted under the provisions of this ordinance shall become null and void unless: The construction authorized by such variance has received a city land use permit within one year after the granting of the variance; and the occupancy of land, premises, or buildings authorized by the variance has taken place within one year after the issuance of the land use permit, unless an extension of time has been granted by the zoning board of appeals. The zoning administrator may grant one six-month extension of construction. After expiration of a six-month extension, all extension shall be granted by the zoning board of appeals.
 - c. No application for a variance which has been denied wholly or in part by the board shall be re-submitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence of changed conditions found, upon inspection by the board, to be valid. For such newly discovered evidence to be considered, an applicant shall submit a detailed description of such evidence to the zoning administrator who shall place it on the agenda of the zoning board of appeals along with a report and recommendation on the nature of such newly discovered evidence and whether it may have been pertinent to the decision of the zoning board of appeals. If the zoning board of appeals determines that the newly discovered evidence would have been pertinent to its decision, it shall direct the zoning administrator to accept a new application for the previously denied variance. An application considered under the terms of this subparagraph shall be considered a new application and shall be subject to all hearing, notice and fee requirements of this ordinance.

SEC. 40-114. – PLANNING COMMISSION.

The city planning commission is hereby designated as the commission specified in section 211 of Act 110 of 2006, as amended, and in section 11 of Act 33 of 2008, as amended. The planning commission shall perform the zoning duties of the commission as provided in Act 110 of 2006, as amended, and Act 33 of 2008, as amended, in connection with this ordinance and chapter 27 of the City of Grand Haven Code of Ordinances, as amended.

SEC. 40-115. – SITE PLAN PROCESS.

Sec. 40-115.01. – Purpose.

The intent of this section is to provide for consultation and cooperation between the applicant and the planning commission in order that the applicant may accomplish his/her objectives in the utilization of land within the regulations of the ordinance, with minimal adverse effect on the land, shores, roadways, natural features, infrastructure, and on existing and future uses of

property in the immediate vicinity, and to insure that a proposed land use or activity is in compliance with this ordinance. In this connection, a site plan includes the documents and drawings required by the zoning ordinance to address whether a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

Sec. 40-115.02. – Scope.

Every application for a land use permit shall include a site plan. A land use permit shall not be issued or otherwise authorized until a site plan, submitted in accordance with this section 40-115.02, shall have been reviewed and approved, and any required securities have been received, based on the following submittal requirements:

- A. A basic site plan shall be required for new dwellings, additions to dwellings, or construction or placement of accessory structures over one hundred (100) square feet in area, the site plan shall be subject to zoning administrator review. Site plans shall comply with subsection 40-115.04.C.
- B. A detailed site plan shall be required for any permitted use (other than those addressed in [subsection] 40-115.02.A) special land use or private parking lot. The site plan shall be subject to planning commission review. Detailed site plans shall comply with subsection 40-115.04.D, and shall be designed and prepared by a registered professional architect, landscape architect, engineer, land surveyor, or planner.
- C. Public uses such as streets, streetscape, utility improvements and similar public improvements that are located within street or highway rights-of-way shall not require site plan review, provided, however, that the planning commission shall be advised of projects which significantly alter traffic, permanently impact neighboring properties, or other large scale projects.
- D. Prior to commencement of construction, demolition, or clearing of land, proposals for public uses such as parking lots, parks, civic buildings, utility structures and other uses, or modifications to established uses, owned or sponsored by the city and located outside of street rights-of-way, shall be presented to the planning commission in a regularly scheduled session, in sufficient detail that the planning commission may understand the scope and the potential impact of such projects. The planning commission may defer the site plan review of any such project to the zoning administrator. However, the planning commission shall review any site plan for such a project owned or sponsored by the city that:
 - 1. Results in a new significant improvement or expansion of an existing public facility;
 - 2. Has the potential to impact surrounding neighborhoods, including increases in intensity of use, traffic, parking demands, noise, public safety concerns, or other nuisances;
 - 3. Constitutes a significant change in the nature of the use of a public facility.

Sec. 40-115.03. – Optional Sketch Plan Review.

Preliminary sketches of proposed site and development plans may be submitted for review to the zoning administrator and/or the planning commission or a committee of the planning commission, prior to official review and approval. The purpose of such procedure is to allow discussion between an applicant and the zoning administrator and/or planning commission, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall, at a minimum, include the following:

- A. The name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership, together with telephone numbers and email addresses.
- B. Legal description, property parcel number, and street address of the subject parcel of land.
- C. Sketch plans showing tentative site and development plans, produced on a scaled drawing illustrating existing and proposed structures, parcel boundaries, natural features, and all improvements, easements, streets, and sidewalks.
- D. The planning commission shall not be bound by any comments or observations made pertaining to a sketch plan.

Sec. 40-115.04. – Application Procedure.

Request for site plan review shall be made by filing with the zoning administrator the required filing fee and escrow, the application form and either a basic or detailed site plan, together with any special studies required. The zoning administrator may recommend to the planning commission the waiver of any site plan submittal requirement upon a finding by the zoning administrator and confirmed by the planning commission that the required information is not applicable to the site. The following describes the required submittals.

- A. An application fee and review escrow as determined by resolution of the city council.
- B. One copy of the completed application form for site plan review which shall contain at a minimum the following information (a narrative attachment is recommended in addition to the application form to sufficiently address all of the following items):
 - 1. Name, address, and signature of applicant and property owner.
 - 2. Legal description, property parcel number, and street address of the subject parcel of property.
 - 3. Area of the subject parcel of property stated in acres, or if less than one acre, in square feet.
 - 4. Present zoning classification on parcel and on adjacent parcels.
 - 5. Present and proposed land use.
 - 6. Applicant's statement of the expected effect on emergency service requirements, schools, utility system (gas, electric, telephone, cable, etc.), stormwater systems, automobile and truck circulation patterns and local traffic volume.

7. A description of the proposed development and the land use proposed

- C. *Basic site plan.* A basic site plan shall be required for applications involving new single-family dwellings, driveways in residential or commercial areas, additions to existing single- or multiple unit dwellings and for any new accessory building over one hundred (100) square feet in area. A basic site plan shall be subject to review only by the zoning administrator.

The zoning administrator may refer basic site plan review and approval to the planning commission pursuant to section 40-115.05 if, in the opinion of the zoning administrator, the site plan involves judgments that require the discretionary authority of the planning commission.

Basic site plans shall include and illustrate at a minimum the following information:

1. A scale drawing of the site and proposed development thereon, including the date, name, and address of the preparer, parcel lines and parcel area.
2. The scale of the drawing and north arrow which shall be not less than 1" = 200' nor greater than 1" = 20'.
3. Existing manmade features, including dwellings, fences, landscaping and screening, accessory structures, and similar features; and the heights and floor area of such structures and other important features.
4. Proposed manmade features, including location of dwelling addition and/or accessory structures, fences, landscaping and screening, as applicable; and heights and floor area of such structures and other important features.
5. Setback lines and their dimensions.
6. Location of existing and proposed driveways and curb cuts, if any.
7. Location of existing public and private rights-of-way and easements contiguous to and on the property.
8. Natural features, including trees with a diameter at breast height of three (3) inches or more, water bodies and wetlands, high-risk erosion areas, beach, sand dunes, slopes in excess of twenty-five (25) percent, drainage and similar features.
9. Any other information as may be required by the zoning administrator to aid in the review of the site plan.

- D. *Detailed site plan.* A detailed site plan shall be required for all uses other than those that may submit a basic site plan. Detailed site plan shall include fourteen (14) copies (unless otherwise required by the city) and a PDF of all required information documents rendered in color. It shall be prepared by an engineer, architect, landscape architect, or planner licensed to work in Michigan and shall include and illustrate at a minimum the following information:

1. A scale drawing of the site and proposed development thereon, including the date, name, address, and professional seal of the preparer. In no instance shall the scale

of the drawing be greater than one inch equals ten (10) feet nor less than one inch equals two hundred (200) feet. One copy shall be submitted in a photo-reduced form on 17" x 11" paper.

2. The scale of the drawing and north arrow.
3. A vicinity map illustrating the property in relation to the surrounding street system as well as the uses on, and zoning of, adjoining parcels.
4. Topography of the site and its relationship to adjoining land illustrated at two-foot contours and including an area extending one hundred (100) feet from the parcel boundary.
5. Existing manmade features, including buildings, fences, landscaping, parking, screening and the locations, heights and footprint of each.
6. Illustration of all proposed improvements and buildings, fences, landscaping, parking and screening, including location, height, footprint of each.
7. Setback lines and their dimensions.
8. Percentage of land covered by buildings and impervious surfaces and that reserved for open space.
9. Dwelling unit density where pertinent; including a density schedule demonstrating number of each dwelling type, if applicable.
10. Project phasing, if applicable, including approximate commencement and completion dates of each phase.
11. Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated or abandoned, including grades and types of construction of those upon the site.
12. Curb-cuts, driving lanes, parking and loading areas, including the number of parking spaces and parking calculations; vehicular circulation patterns and features, location and size of all parking spaces and the identification of service lanes and parking.
13. Curb-cuts and driveways on adjacent properties.
14. Location and type of drainage, sanitary sewers, storm sewers and other facilities, including surface and subsurface drainage for all impermeable surfaces on the site and all drainage calculations.
15. Existing and proposed water main, sanitary and storm sewer, natural gas, electric, telephone, cable television and other utilities, the proposed location of connections to existing utilities and any proposed extensions thereof.
16. Proposed changes to the topography of the site illustrated at no greater than two-foot contours and quantities of soil to be removed or added.
17. Soil erosion, sedimentation, and dust control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development.

18. Detail on proposed signage including an illustration of all proposed signs, their surface area, height and nature of illumination, in accordance with article VII, hereof.
19. A lighting plan meeting the requirements of section 40-317, lighting.
20. A written and illustrated landscape plan prepared in accord with section 40-804, application and maintenance, of this zoning ordinance.
21. If the parcel is a result of a parcel division undertaken after the adoption of this ordinance, the site plan shall illustrate all structures and buildings, drawn to scale located on the previously undivided property.
22. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the zoning administrator or the planning commission. This may include information pertaining to such potential off site impacts as noise, vibration, fumes, odors and similar effects.
23. Any required approvals, permits, changes, or modifications required by any applicable regulatory agency.
24. Special groundwater protection. Site plans for facilities which use or generate hazardous substances in quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety-five (95) liters (approximately twenty-five (25) gallons) per month, whichever is less; or store greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety-five (95) liters (approximately twenty-five (25) gallons), whichever is less; shall be subject to the following additional site plan submittal requirements:
 - a. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
 - b. Location of all underground and aboveground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated stormwater or wash water, and all similar uses.
 - c. Location of exterior and interior drains, on-site sewage systems, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
 - d. Location of all water wells on the site and within one hundred fifty (150) feet surrounding the parcel's property boundaries.
 - e. Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of site cleanup.
 - f. Submission of the "Hazardous Substances Reporting Form for Site Plan Review."
 - g. Submission of the "State/County Environmental Permits Checklist."

25. Written and illustrated documentation of measures to comply with the requirements of any city stormwater provisions.

E. Special studies or research. For complex site plans and/or for land uses that may generate significant impacts on surrounding land uses or public facilities, the zoning administrator may recommend and the planning commission may require any or all of the following reports or studies, or components thereof, as a part of a complete site plan.

1. Environmental assessment. This shall be a summary review of the environmental impacts of a project in accordance with the following standards:

a. The purpose of the environmental assessment shall be:

1) To provide relevant information to the planning commission on the potential environmental impact of applications for special land use permits for substantial projects that may have an impact on the natural, social and economic environment of the city;

2) To inject into the developer's planning process consideration of the characteristics of the land and the interests of the community at large; and

3) To facilitate participation of the citizens of the community in the review of substantial developments.

b. Guidelines. When required by the planning commission pursuant to this section, an applicant for site plan, special use permit or planned development approval shall prepare an environmental assessment in accordance with these guidelines. An environmental assessment is not an environmental impact statement, but rather a summary review of the site in question considering the past and present land uses and the proposed development. The analysis is intended to determine how the proposed development will meet the goals of the community as they are expressed in the master plan. The complexity of the environmental assessment will depend on the scope of the project and the magnitude of the potential impact. In preparing the environmental assessment, judgment should be exercised to keep the form and extent of responses in proportion to the scope of the project. Each answer is to be as brief as practicable, although the planning commission may request further elaboration. The planning commission may waive elements of these guidelines as either not applicable or previously addressed in other submittals, on a case-by-case basis. All information must be submitted in the following format and shall not merely reference a study or report completed previously, rather whenever possible, the environmental assessment report shall incorporate a summary of the findings of such study or report in addition to such cross-references. In addition, any cross-referenced study or report shall be submitted with the environmental assessment.

c. Content. The following material shall be included and/or addressed in the environmental assessment, unless specifically waived by the planning commission as not applicable:

- 1) A description of the site in its current condition. This shall indicate any buildings to be preserved and those to be removed along with an indication of what will be done with the demolition debris. This must also include information on:
 - a) Flora and fauna (be sure to list any endangered species on-site).
 - b) General topography and drainage patterns including any regulated features such as wetlands, high risk erosion areas or other features.
 - c) Adjacent waterways.
 - d) Existing wells, approximate depth, and use.
- 2) A description of any asbestos abatement proposed for the site. If applicable, this shall include a description of the method to be sure this material does not get into the surrounding area.
- 3) A description of any existing contamination on-site. This should include a description of the nature of the contamination on-site and what will be done on this project to mitigate or contain it, including the proposed methodology and any state or federal regulatory agency reviews that may apply. If the project includes work that may disturb or displace existing contaminated soils or water, this should include a description of proposed methods to contain and/or dispose of the generated waste.
- 4) If the proposed project will impact any coastal areas or floodplain or involve riparian work along adjacent waterways, a description of the proposed work and the methodology proposed to protect waterways shall be provided.
- 5) A description of the existing soils on-site and a statement as to the suitability of these soils for the proposed use.
- 6) A description of any historical or archeological significance associated with the site. If any such areas are present, this shall include a description of methods to protect and preserve any historic or archeological resources.
- 7) A description of any emissions from the proposed development as it relates to air quality. If any emissions are proposed, this shall include a description of each constituent and the effects of each constituent to nature and human life.
- 8) A description of any hazardous materials or waste to be stored on-site. This shall include a description of proposed methods to contain such materials and prevent any migration into adjoining soils or groundwater or into the atmosphere.
- 9) A description of any stormwater or process water discharges from the site. This shall include a characterization of such discharge in terms of the quantity, quality and chemical constituents and temperature and a description of the possible effects this discharge may have on the receiving waters.

- 10) If a federal, state, or local regulatory authority has conducted an environmental assessment, environmental impact statement, or a preliminary assessment/site inspection or environmental survey of the site, a brief description of the findings and provide a copy of the report or results.
 - 11) A description of the anticipated noise levels to be generated at all property lines of the proposed use. This shall include a description of measures proposed to mitigate noise.
 - 12) A description of off-site impacts from odors or lighting and measures to mitigate such effects.
 - 13) A description of the anticipated traffic to be generated by the proposed use.
 - 14) A description of plans for site restoration after construction.
 - 15) A description of methods to handle sanitary waste for the project both during construction and after completion.
 - 16) A description of how potable water will be provided to the site. If any on-site wells are proposed or any lake-draw systems are proposed for the project, this shall include a description of the type of well or lake draw system, any regulatory requirements that may apply and the status of such regulatory approval.
 - 17) A description of any additional items as needed to describe the potential environmental impacts of the proposed project.
 - 18) Chain of title history from abstract company detailing easements, deed restrictions or other encumbrances.
- d. The individual preparing the environmental assessment must sign and seal (if prepared by a registered engineer, land surveyor, community planner or landscape architect) the submitted document.
 - e. The zoning administrator may submit the study to a recognized consultant(s) in the field for review and independent comment. The cost of any such review shall be borne by the applicant.
2. Traffic impact study. The zoning administrator may recommend and the planning commission may require that a traffic impact study completed by qualified professional be prepared as an attachment to a site plan submitted for any development in the city meeting the requirements of this section. The purpose of this section is to set forth the standards to be used by the planning commission in requiring the submission of such a traffic impact study, the required minimum content of such a study and the standards and procedures for the review of its findings.
 - a. Description. A traffic impact study shall include an analysis of the existing traffic conditions on the roadway network in the vicinity of a proposed project, including any accident history, average speeds, average daily and peak hour traffic volumes and levels of service of all key roadway segments and intersections.

The study shall further indicate the effect of a proposed development on adjacent roadways and intersections and indicate the anticipated points of origin, direction, and volume of traffic flow to and from the proposed development. The study shall be prepared by either a registered professional engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in Michigan. The study shall include a summary of the qualifications and documented experience of the author and specifically describing experience in preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design recommendations, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.

- b. Criteria for requiring a traffic impact study. The zoning administrator may recommend and the planning commission may require that a traffic impact study be prepared as an attachment to a site plan for any proposed commercial, industrial, residential, or mixed use development which has the potential to significantly increase traffic volumes on the surrounding roadway network. In determining the level of potential impact, the zoning administrator or planning commission shall consult appropriate planning and engineering texts including, but not limited to, Trip Generation, published by the Institute of Transportation Engineers and may seek the counsel of other professionals with experience with developments similar to that proposed. A traffic impact study may be required under this section when, in the judgment of the zoning administrator or planning commission, the proposed development will result in either an increase of either the average daily traffic or the peak hour traffic equal to or greater than ten (10) percent of the current traffic volume on the adjoining roadway or other significant demonstrable traffic impacts on local roadways.
- c. Required study content. In general, a required traffic impact study shall document existing conditions on the existing roadway network including all intersections within one mile of the proposed development including average daily traffic and peak hour volumes in all directions, existing turning movements, levels of service, average traffic speeds, and accident history. Existing pedestrian and non-motorized traffic volumes shall also be estimated. The traffic impact study shall project the impact of the proposed development on the roadway network including all intersections within one mile of the proposed development including projected average daily traffic and peak hour volumes in all directions, anticipated turning movements, and anticipated levels of service. Anticipated impacts on pedestrian and non-motorized traffic volumes shall also be projected. The following specific elements shall be addressed in a required traffic impact study, unless specifically waived by the planning commission:
 - 1) A narrative summary at the beginning of the report, including, but not limited to:
 - a) The applicant and project name.
 - b) A location map.

- c) The size and type of development.
 - d) Generated traffic volumes based on type and size of land use which are compatible with those listed in the Institute of Transportation Engineers – publication, Trip Generation (current edition).
- 2) Project phasing identifying the year of development activities per phase and proposed access plan for each phase.
 - 3) A transportation system inventory, which describes the physical, functional, and operational characteristics of the study area highway system and, where appropriate, locate transit services. The description should provide, where pertinent, data on:
 - a) Peak-hour volumes (existing and projected).
 - b) Number of lanes.
 - c) Cross-section.
 - d) Intersection traffic signals and configuration.
 - e) Traffic signal progression.
 - f) Percentage of heavy trucks.
 - g) Adjacent access point locations.
 - h) Jurisdiction.
 - i) Grades.
 - 4) Plan showing proposed roadway per phase for each access. Driveway design and roadway improvements shall meet Michigan Department of Transportation (MDOT) or City of Grand Haven standards and guides.
 - 5) Capacity analysis shall be performed at each access point. The city's preference is the use of highway capacity software, (HCS 2000), or a later version thereof. Default values shall not be used when actual values are reasonably available or obtainable. The interaction of conflicting traffic movements shall be addressed in the traffic impact study. Any proposed signalized access within one mile of an existing signalized intersection shall be analyzed in coordination with the existing signal timing.
 - 6) A traffic impact study shall include an analysis of conditions with and without the proposed development on the existing system, and with the proposed development for both existing and projected traffic volumes. The traffic volumes for the development shall assume a total build out. The completed analysis shall be summarized in a table showing all the measures of effectiveness (MOE) for all of the above conditions.
 - 7) Required operational changes shall be part of the site plan review and any access permit approval process.

- d. Evaluation and criteria. As a general criteria, the existing roadway network and all access points to a proposed development shall be demonstrated to be fully capable of accommodating the increased average and peak hour traffic anticipated. In the event the anticipated level of service on any roadway segment or intersection is shown to decline, the traffic impact study shall present alternative approaches proposed to manage anticipated traffic without such decline.
 - e. The city engineer, planner, and/or an independent traffic engineer or transportation planner may be asked to review and comment on any traffic impact study prepared pursuant to this section. The cost of any such review shall be borne by the applicant.
3. Market study. For unique development proposals, projects that may entail some financial expense or risk on the part of the city and/or projects that may, in the judgment of the planning commission, fundamentally alter the character of the community, the planning commission may require a market study to demonstrate a reasonable expectation that a market exists for a proposed development. Such a study shall be prepared in accord with this section.
- a. Description. A market study shall be a detailed and documented analysis of the existing and projected economic conditions in the community that may impact both the proposed demand for the products or services to be generated on a site and the impact on other potentially competing businesses and services in the community that may result from the proposed development.
 - b. Content. Unless specifically waived by the planning commission, a market study shall include the following elements:
 - 1) An executive summary which outlines the key findings of the study.
 - 2) The background for the study including both project background and the methodology and approach used.
 - 3) An overview of the market area including area demographic information and a description of the transportation and service infrastructure that would serve the proposed development.
 - 4) A trade area delineation describing the likely geographic area that may be influenced by the proposed development along with detail on the methodology used in defining the trade area.
 - 5) A market feasibility analysis that defines the supply of competing facilities existing and planned in the marketplace, the inventory of alternative sources of supply or services that may compete with the proposed development and the demand for the products and services to be provided by the proposed development. This shall include a supply/demand gap analysis and a description of the ways in which the proposed development may address the gap defined.

- 6) The credentials of the author(s) of the market study.
- c. Evaluation. The zoning administrator and planning commission shall review the market study to be satisfied that there is a reasonable expectation that the proposed development will meet with economic success without creating excessive dislocations within the existing marketplace. The zoning administrator may submit the study to a recognized consultant(s) in the field for review and independent comment. The cost of any such review shall be borne by the applicant.
4. *Other studies or research.* The zoning administrator and/or planning commission may require studies or reports not specifically listed above to aid in the review of a proposed site plan. Such studies may include, but are not limited, to health impact assessments, economic impact studies, feasibility studies, and similar information. In all cases, required studies and reports shall be performed by a qualified professional and shall provide documentation in sufficient detail to enable the city to make an informed decision on the application.

Sec. 40-115.05. – Action on Application and Site Plans.

- A. Upon receipt of a submitted application and site plan, the zoning administrator shall review the plan to determine its completeness. If the submittal is incomplete, the zoning administrator shall provide the applicant with a list of items needed to make the submittal complete.
- B. If a basic site plan is found to be complete, the zoning administrator shall review the site plan in accordance with section 40-115.06, review criteria, and approve or deny the application accordingly. The applicant and the zoning administrator shall sign an approved basic site plan, and a copy shall be kept on file with the City of Grand Haven for future review and enforcement.
- C. If a detailed site plan submittal is complete, the zoning administrator shall record the date of receipt and transmit copies thereof to each of the planning commissioners; to the department of public safety when necessary; to other area review agencies, such as the city engineer, county health department, Michigan Department of Transportation, retaining at least one copy in the zoning administrator's office. The zoning administrator and city officers and agencies shall have forty-five (45) days from receipt of a complete site plan review application to prepare staff comments on the application.
- D. A meeting shall be scheduled for a review of the application, plans, and of the recommendation of the zoning administrator with regard thereto. Members of the planning commission shall be delivered copies of the same prior to the meeting for their preliminary information and study. The meeting shall be held within forty-five (45) days of the date of the receipt of the complete plans and completed application.
- E. The applicant shall be notified of the date, time, and place of the meeting on the application not less than three (3) days prior to such date.

- F. After conducting a review of the site plan, the planning commission shall approve, approve conditionally, or reject the site plan, as it pertains to requirements and standards contained in the zoning ordinance. Any conditions required by the planning commission shall be stated in writing and shown on the site plan, together with the reasons for such conditions, and delivered to the applicant. Decisions by the planning commission shall be made within a reasonable time of the receipt of the completed application and any additional materials requested by the city. The planning commission may impose conditions on the application and site plan pursuant to section 40-120.
- G. A site plan approved or conditionally approved by the planning commission which includes a landscape plan submitted under section 40-804, application and maintenance, shall require a performance guarantee pursuant to section 40-125, fees, escrows and performance guarantees.
- H. Two (2) copies of the approved site plan, with any conditions, shall be maintained as part of the city records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed by the applicant and the chair of the planning commission and dated with the date of approval for identification of the approved plans. If any variances from the zoning ordinance have been obtained from the zoning board of appeals, the minutes concerning the variances, duly signed, shall also be filed with the city records as a part of the site plan and delivered to the applicant for information and direction.
- I. The applicant shall also provide one electronic copy of the site plan in a format compatible with the city's systems.
- J. To insure compliance with the site plan, zoning ordinance, and any conditions, limitations or requirements imposed on the applicant, the zoning administrator, with the consent of the planning commission, may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond in an amount and under conditions permitted by law. Such security shall be deposited with the city treasurer at the time of permit issuance authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the zoning administrator may authorize a return of a portion of the deposit in reasonable proportion to the completion of the required improvements. Such security shall not exceed the estimated cost to fulfill the required conditions, and limitations established for the site plan.

Sec. 40-115.06. – Review Criteria.

In the process of reviewing a site plan, the planning commission or zoning administrator shall consider:

- A. That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the City or the Michigan Department of Transportation.

- B. That the buildings, structures, and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
- C. That as many natural features of the landscape shall be retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of stormwaters.
- D. That any adverse effect of the proposed development and activities emanating therefrom upon adjoining and nearby residents or owners shall be minimized by appropriate screening, fencing or walls, or landscaping.
- E. That all provisions of this ordinance are complied with unless an appropriate variance therefrom has been granted by the zoning board of appeals.
- F. That all buildings and structures are accessible to emergency vehicles.
- G. That a plan for erosion control and stormwater discharge has been approved by the appropriate public agency, and, if appropriate, the city's engineer.
- H. The relationship to shore and river preservation principles where appropriate.
- I. That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.
- J. That all utility services shall be provided on site in a manner least harmful to surrounding properties, and that all utilities are located underground, as applicable, unless specifically waived by the planning commission.
- K. That all applicable local, regional, state, and federal approvals are in place, or that such approvals shall be in place prior to issuance of a land use permit. Further, the failure to remain in compliance with any such approval may be grounds for denying or revoking approval hereunder.
- L. Projects proposed within three hundred (300) feet of Lake Michigan and/or the Grand River shall be arranged to preserve the maximum possible view corridor from public activity areas to said bodies of water. For the purpose of this section, public activity centers shall include pedestrian walkways, outdoor recreation areas, outdoor eating/drinking facilities, outdoor attractions, or amenities (such as fountains, statues,

monuments, public benches/seating, and other similar features) which are designed to attract and promote the gathering of the general public on-site.

- M. That the proposed development shall be reasonably compatible in appearance and layout with property in the vicinity.

Sec. 40-115.07. – Conformity to Approved Site Plans.

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, any conditions pertaining thereto, and any amendments thereto which have received the approval of the planning commission and/or the zoning administrator. If construction and development does not conform with such approved plans and conditions, or if the proposed development is found in violation of this ordinance, the approval shall be revoked by the zoning administrator by written notice of such revocation posted upon the premises involved and mailed to the applicant at the last known address. The zoning administrator shall be empowered to issue a stop work order for any development that is not in compliance with this ordinance. Upon issuance of such stop work order or revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. However, the planning commission and/or the zoning administrator may, upon proper application, approve an amendment to the site plan pursuant to section 40-115.09, amendment to the site plan.

Sec. 40-115.08. – Term of Approval of the Site Plan.

Approval of the site plan shall be valid for a period of one year after the date of approval. The planning commission may grant extensions if applied for and granted in writing. The reasons for extensions may be the inability to complete the requirements, financial constraints, regulatory approvals or other proven hardship. If a land use permit has not been obtained or the on-site development has not commenced or is not making reasonable progress within said one year, the site plan approval shall become null and void and a site plan approval application shall be required and approved before any construction or earth change is commenced upon the site.

Sec. 40-115.09. – Amendment to the Site Plan.

No changes shall be made to an approved site plan prior to, during, or after construction except upon application to the zoning administrator according to the following procedures:

- A. The zoning administrator may approve minor amendments to a site plan including, but not limited to:
 - 1. Changes to the number of parking spaces by no more than ten (10) percent.
 - 2. Changes in the building size, up to fifteen (15) percent of the gross floor area.
 - 3. Movement of buildings or other structures by no more than twenty (20) feet.
 - 4. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size and/or number.
 - 5. Changes to building materials or updates or alterations to a building facade to a comparable or higher quality.
 - 6. Changes in floor plans that do not alter the character of the use.
 - 7. Changes required or requested by the city, the Ottawa County Road Commission, or other county, state or federal regulatory agency in order to conform to other laws or regulations.
 - 8. Other changes that are deemed by the zoning administrator to be minor.
- B. Major changes or amendments to an approved site plan involving a change of use, change in the number and location of accesses to public streets and alleys, and increase in projected traffic volumes, a major relocation of a building, increase in the gross floor area of more than fifteen (15) percent and changes in or heights of buildings, a reduction in open space, and similar major changes that, in the judgment of the zoning administrator, constitute a significant increase in development intensity or a fundamental change in the character of the development, shall require the approval of the planning commission, in the same manner as the original application was submitted, reviewed, and approved.

Sec. 40-115.10. – Appeals.

With regard to site plan approval decisions, an appeal may be taken to the zoning board of appeals only with regard to matters relating to the interpretation of the terms of this ordinance as such interpretation of the zoning ordinance by the zoning administrator or planning commission may impact a decision on a site plan or land use permit. Such appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the city. The zoning board of appeals shall state the grounds of each determination.

SEC. 40-116. – SPECIAL LAND USE PROCESS.

Sec. 40-116.01. – Special uses.

A special use is a use that is permitted within a specified zone district after meeting specific requirements listed in article V. Such uses may not be appropriate in all circumstances, but with certain restrictions or conditions can be made compatible in others. It is the purpose of this article to name, describe, and list any additional requirements for each individual conditional land use. Due to the nature of the use, special uses require special consideration in relation to the welfare of adjacent properties and to the community as a whole.

Sec. 40-116.02. – Special use procedures.

A special use application shall be submitted and processed according to the following procedures:

- A. *Submission of application.* Applications shall be submitted through the zoning administrator to the planning commission. Each application shall be accompanied by the payment of a fee and any applicant escrow payments as required by section 40-125 and in accordance with the schedule of fees adopted by the city council to cover the costs of processing the application. An application shall be submitted to the zoning administrator on a special use application form. A special use application shall be placed on the agenda of the planning commission by the zoning administrator within forty-five (45) days of the submission of a complete application prepared in accordance with this zoning ordinance. An application, which is incomplete or otherwise not in compliance with this ordinance, shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees and escrow payments paid in full.
- B. *Data required.* Fourteen (14) copies (unless otherwise required by the city) and a PDF of an application for a special use permit shall be presented to the zoning administrator and accompanied by the following documents and information.
 1. A complete special use permit application including the following information:
 - a. Name and address of applicant and owner(s).
 - b. Legal description, property parcel number, and street address of the subject parcel of land.
 - c. Area of the subject parcel of land stated in acres, or if less than one acre, in square feet.
 - d. Present zoning classification of the parcel and of adjoining properties.
 - e. Present and proposed land use.
 - f. A letter or signed narrative describing in detail the proposed special use and detailing why the location selected is appropriate.
 - g. Applicant's statement of the expected effect of the special use on emergency service requirements, schools, stormwater systems, sanitary sewer facilities, automobile and truck circulation patterns, and local traffic volumes.

- h. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be required by this ordinance, by the zoning administrator or the planning commission; including, but not limited to, measures which will be undertaken to control soil erosion, dune protection, view protection, shoreline protection, excessive noise, or adverse impacts of the development on the surrounding properties; elevations on all buildings, including accessory buildings; and, an environmental assessment.
 - i. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in this section and other standards imposed by this ordinance affecting the special use under consideration.
 - 2. A complete site plan containing all the applicable data required by section 40-115, site plans.
 - 3. Supporting statements, evidence, data, information and exhibits that address the standards and requirements for assessing special use permit applications as provided in section 40-116.03.
 - 4. Any additional information deemed necessary for the planning commission to determine the impact of the proposed special use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to, a traffic impact analysis as required by subsection 40-115.04.E.2, an environmental assessment as required by subsection 40-115.04.E.1, a market study as required by subsection 40-115.04.E.3, or reports and/or information provided by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.
 - 5. The zoning administrator may recommend to the planning commission the waiver the submission of materials outlined in this section if such materials are determined to be not applicable to the proposed special use or relevant to the consideration of the planning commission. Provided however, the planning commission may require that any waived materials be prepared if such material are germane to the decision.
- C. *Special use review procedures.* An application for special use approval shall be processed as follows:
- 1. Optional planning commission pre-public hearing discussion. The zoning administrator shall forward a copy of the complete application for the special use request to the planning commission within forty-five (45) days of receiving the completed application. Prior to the public hearing, the applicant may request that the planning commission conduct a pre-public hearing discussion on the proposed special land use. The pre-public hearing discussion is intended to foster discussion between the applicant and planning commission regarding the proposed special land use and to allow the planning commission to request any additional information or special studies to aid in its review. At such meeting, (if conducted) the planning

- commission may review the application and question the applicant about the special use. Any comments made by the planning commission at the pre-public hearing discussion shall be non-binding and shall not be construed to constitute any kind of approval or disapproval of the application. Prior to the public hearing, the planning commission shall not render any formal judgments or decisions on the application.
2. If the application is deemed complete by the zoning administrator and following the pre-public hearing discussion (if conducted), a public hearing shall be scheduled as set forth in this section. Notice of the public hearing to consider a special use application shall be given as required by section 40-122.
 3. Planning commission action. After the public hearing on of the special use permit application, the planning commission shall review the application and any reports of city planning personnel, planning, or engineering or other consultants and reach a decision to approve, approve with conditions, or deny the application. Such decision shall be reached within a reasonable time following the public hearing on the application. The planning commission's decision shall be incorporated in a motion containing conclusions reached relative to the proposed special use, which motion shall provide the basis for the decision and any conditions imposed.
 4. Basis for action. In arriving at their decision, the planning commission shall refer to and be guided by those standards set forth in this article. If the facts regarding the special use do not establish by a preponderance of the evidence that the standards and requirements set forth in this article can and will be met, the application shall be denied.
 5. Attachment of conditions. The planning commission may prescribe conditions of approval pursuant to subsection 40-116.03B and section 40-120.
- D. Issuance of a special use permit. Upon approval by the planning commission, the zoning administrator shall issue the special use permit. It shall be the responsibility of the zoning administrator to monitor compliance with the terms, conditions, and restrictions of any special use permit and take any enforcement action necessary in the event of a violation of the special use permit.
- E. Appeals. No decision or condition related to a special use application shall be appealed to the zoning board of appeals. An appeal of a special use decision or condition may be taken to circuit court.
- F. Duration of approval. The special use permit shall become effective upon planning commission approval.
1. The zoning administrator or building official shall not issue a building permit and land use permit until approval of such special use permit and the satisfaction of any conditions pertaining to such approval.
 2. Until a building permit has been granted pursuant to the special use permit, there shall be no construction or excavation of said land, nor shall there be any use of the

land in anticipation of the special use unless such use is incorporated in the conditions of approval adopted by the planning commission.

3. Land subject to a special use permit may not be used or occupied for such special use until after a certificate of occupancy has been issued pursuant to the provisions of this ordinance, or the approval of the zoning administrator has been granted for uses not subject to the requirements for a certificate of occupancy.
- G. *Amendments.* Amendments to special use permits shall be handled in the same manner as the initial special use permit application. Minor non-substantive changes to a site plan in accordance with section 40-115.09 may be made to an existing special use permit with the approval of the zoning administrator.
- H. *Transfers.* Prior to completion of construction related to a special use, the special use permit, with any and all associated benefits, conditions and required security may be transferred to a new owner only upon the sale or transfer of the property in question and only upon the approval of the planning commission. Such approval shall not be unreasonably withheld if the planning commission is satisfied that the proposed owner has similar qualifications and capabilities as the approved owner. The responsibility for affecting the transfer shall be the original owner. The original owner, upon transferring the special use permit, shall advise the zoning administrator of said transfer in order to insure the continued validity of the permit, compliance with security, and other conditions. Following completion of construction and commencement of the special use, the special use permit shall run with the land, subject to subsection 40-116.02.I.4, pertaining to abandonment, and may not be moved or transferred to another location.
- I. *Expiration.* A special use permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The special use permit will expire on the occurrence of one or more of the following conditions:
1. If replaced or superseded by a subsequent permitted use or special use permit.
 2. If the applicant requests the rescinding of the special use permit.
 3. If the use is abandoned, moved or vacated for a period of one year.
- J. *Violations.* Any violation of the terms, conditions, or limitations of a special use permit shall be cause for revocation or suspension of the permit. The planning commission may either revoke or suspend, pending correction of the violation, any special use permit. The act to revoke or suspend the permit shall occur after giving notice to the permit holder, specifying the alleged violation(s) and disclosing when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit, the planning commission shall make a finding that a material violation of the special use permit exists. The permit holder shall be given reasonable opportunity to correct the violation(s).

Sec. 40-116.03. – Special use review standards.

- A. *General review standards.* The planning commission, before acting on a special use permit application, shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this zoning ordinance, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The planning commission shall review each application and take action to approve a special use application only if it finds that such special use meets each of the following standards, together with any and all special use standards reflected for the zoning district, and any and all applicable specific review standards found in this article. The planning commission shall find adequate evidence that each use at its proposed location will be consistent with the public health, safety, and welfare of the city and shall comply with the following standards:
1. The special use shall be consistent with the adopted City of Grand Haven Master Plan.
 2. The special use shall be designed, constructed, operated, and maintained to be consistent with the existing or intended character of the general vicinity and such use will not change the essential character of the area in which it is proposed.
 3. The special use shall not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
 4. The special use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, stormwater drainage, refuse disposal, water and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
 5. The special use shall not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.
 6. The special use shall not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property, or general welfare by reason of excessive production of traffic, noise, vibration, smoke, toxic emissions, fumes, glare, or odors.
 7. The special use shall meet the intent and purpose of the zoning ordinance; be related to the standards established in the ordinance for the land use or activity under consideration; and will be in compliance with these standards.
 8. The special use shall comply with the City of Grand Haven Code of Ordinances, as amended, including but not limited to chapter 23, nuisances, as well as any applicable state and federal laws.
- B. *Conditions and approval standards.* The planning commission may establish reasonable conditions of approval for a special use permit pursuant to section 40-120 of this ordinance. Further, the planning commission may adopt specific review standards for

any proposed special use proposed if this section 40-116 or section 40-120 do not provide such specific review standards for such use.

- C. *Specific review standards.* In addition to the general review standards set forth in subsection 40-116.03.A, of this zoning ordinance, the planning commission shall apply the specific review standards set forth in article five for each named special use. In the event this section 40-116 does not set forth specific review standards for the special use under consideration, pursuant to section 40-325 unclassified uses, the zoning administrator may propose, and the planning commission may incorporate specific review standards for such use. Provided, however, that any such standards adopted and any such conditions applied shall conform with the requirements of subsection 40-116.03.B, herein.

SECS. 40-117 – 40-119. – RESERVED

SEC. 40-120. – CONDITIONS OF APPROVAL.

The zoning administrator, planning commission, city council and zoning board of appeals may attach reasonable conditions with the approval of special land uses, planned unit developments, site plans, variances, and other discretionary zoning decisions. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of this zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- D. Conditions shall not be placed on an approval for rezoning except as permitted through conditional rezoning pursuant to section 40-121.01.

SEC. 40-121. – AMENDMENTS.

Any person affected by this ordinance may submit a petition in writing to the zoning administrator requesting that consideration be given to amendments to this ordinance, including the zoning map, in the particulars set forth in the petition. The planning commission shall hold a meeting to consider said petition in accordance with Section 403 of the Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006, as amended). Prior to making a

recommendation on the proposed amendment to the city council, the planning commission shall consider the factors specified as follows:

- A. If the proposed amendment is a map amendment (rezoning), the planning commission shall consider the following:
 - 1. If the proposed zoning amendment is consistent with the city's adopted master plan.
 - 2. If the proposed zoning amendment is consistent with recent development trends in the area.
 - 3. If the zoning amendment is compatible with existing or future land uses in the vicinity of the subject site or throughout the zoning district(s) affected by the proposed amendment.
 - 4. If existing or planned public infrastructure, including streets, sanitary sewers, storm water, water, sidewalks, and street lighting are capable of accommodating potential changes in land use resulting from the proposed amendment.
 - 5. If the proposed amendment is consistent with the intent and purpose of this ordinance and whether the proposed amendment would protect the health, safety, and welfare of the city.
- B. If the proposed amendment is a text amendment, the planning commission shall consider the following factors:
 - 1. If the proposed text amendment would clarify the intent of the ordinance or correct an error.
 - 2. If the proposed text amendment would address changes to state legislation, recent case law, or opinions from the Attorney General, or promote compliance with changes in other county, state or federal regulations.
 - 3. In the event the amendment will add a use to a district, if the proposed use is fully consistent with the character of the range of uses provided for within the district, and that the amendment will not create incompatible land uses within a zoning district, or between adjacent districts.
 - 4. If the proposed amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items.
 - 5. If the proposed amendment is consistent with the city's ability to provide adequate public facilities and services, and is consistent with the city's desire to protect the public health, safety, and welfare of the community.

Sec. 40-121.01. – Conditional Rezoning.

- A. Any interested property owner may voluntarily offer in writing, and the city may approve, certain uses and/or development of the land as a condition to a rezoning of the land.
- B. Application procedure.

1. If the applicant wishes to submit an offer of conditions or restrictions related to the site, the proposed use or its impact on the community along with a petition to rezone land, such offer of conditions or restrictions shall be presented in writing. Proposed restrictions shall be stated clearly, as determined by the zoning administrator. The offer of conditions or restrictions shall be received with the application to rezone the land, except as provided in subparagraph B.4 hereof.
2. The applicant may request a pre-application meeting, in which the zoning administrator and other city officials may identify concerns reasonably related to the rezoning request. The city shall not require the applicant to offer conditions or restrictions as a prerequisite for rezoning nor shall the presentation of an offer of conditions or restrictions create any obligation on the part of the city to rezone any land.
3. The City of Grand Haven shall not add to, alter, or augment the offer of conditions or restrictions.
4. The offer of conditions or restrictions shall be received in writing with the rezoning application, prior to the planning commission public hearing on the rezoning request. Provided, if an offer of conditions is proposed at a planning commission public hearing on the rezoning request, the public hearing may be adjourned or recessed to provide the city time to consider the offer; and if an offer of conditions is proposed at a city council meeting, the rezoning request and such conditions shall be remanded back to the planning commission for consideration.
5. The planning commission or city council may table a request to give residents of the City of Grand Haven more time to fully understand the offer of conditions.

C. Standards for approval.

1. When reviewing a rezoning request and/or an offer of conditions or restrictions, the city may consider, but shall not be limited to; future land use recommendations in the master plan; goals and objectives in the master plan; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents.
2. Offers of conditions or restrictions shall not be approved if such conditions or restrictions would have the effect of departing from the standards of the zoning ordinance or other regulations or ordinances promulgated by, or applicable in, the City of Grand Haven.
3. When considering an offer of conditions or restrictions, the city shall determine whether the conditions or restrictions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.

D. Expiration of agreement, reversion, and extensions.

1. In approving the conditions, the city may establish a time period during which the conditions apply to the land. Except for an extension under subparagraph D.3 hereof,

- if the conditions are not satisfied within the time specified, the land shall revert back to its former zoning classification, per subparagraph D.4 hereof.
2. The city shall not add to or alter the approved conditions during the time period specified under subparagraph D.1.
 3. The time period specified under subparagraph D.1 may be extended upon the application of the property owner and approval of the city.
 - a. The applicant shall submit in writing a request to the zoning administrator, who will forward the written request and his recommendation on the request to the planning commission. The written request shall include reasons why the extension is being solicited.
 - b. Upon recommendation of the planning commission, the city council may extend the time period specified under subparagraph D.1. If the extension is approved and if the conditions are not satisfied within the time specified under the extension, the land shall revert back to its former zoning classification, per subparagraph D.4.
 4. If the conditions are not satisfied or the restrictions are not established within the specified time period, the zoning administrator shall initiate the reversion process, in which the land reverts back to its former zoning classification, in accordance with this paragraph. After a public hearing and after determining that the applicant has failed to satisfy the approved conditions, the planning commission shall make a recommendation to the city council. The planning commission shall state what specific conditions were not met, shall note all comments and reports requested or the absence of such. The city council shall then consider the rezoning of the land back to its former zoning classification.
- E. Coordination and performance bonds.
1. Where proposed conditions or restrictions involve public improvements, the applicant shall submit the following to the planning commission prior to final approval of the rezoning and offer of conditions:
 - a. A construction schedule.
 - b. Costs and obligations.
 - c. Responsible parties for obtaining permits.
 - d. Proof, in writing, that applicable utility or regional agencies or reviewing bodies have reviewed and approved final design of said public improvements.
 2. The city may require submission of performance bonds or similar tools as part of the agreement or approval.
- F. Notices and hearing. Rezoning or zoning reversion of land shall require notice of public hearing in accord with section 40-122 hereof.

SEC. 40-122 – PUBLIC HEARING NOTICE REQUIREMENTS.

All applications for development approval, amendments, variances, or other deliberations requiring a public hearing under the terms of this ordinance shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 and the other provisions of this section with regard to public notification.

Sec. 40-122.01. – Responsibility.

When the provisions of this ordinance or the Michigan Zoning Enabling Act require that notice be published, the zoning administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the city and mailed or delivered as provided in this section.

Sec. 40-122.02. – Content.

All mail, personal and newspaper notices for public hearings shall:

- A. Describe nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned development, variance, appeal, ordinance interpretation or other purpose and the procedures to be followed in evaluating the request.
- B. Location: Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
- C. When and where the request will be considered: Indicate the date, time and place of the public hearing(s).
- D. Indicate when and where written comments will be received concerning the request.

Sec. 40-122.03. – Timing of notice.

Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this ordinance where applicable, notice of a public hearing on an application for a rezoning, text amendment, special land use, planned development, variance, appeal, or ordinance interpretation, publication shall occur shall be provided as follow:

- A. Publication shall occur at least fifteen (15) days before the date the application or other matter will be considered for approval.
- B. Personal notice by mail or delivery shall occur not less than fifteen (15) days before the date the application or other matter will be considered for approval.

Sec. 40-122.04. – Distribution of notice.

If the hearing involves a request for an interpretation of the zoning ordinance by the zoning board of appeals, an appeal of an administrative decision by the zoning board of appeals or consideration of a zoning map change involving ten (10) or fewer adjacent properties, in addition to publication of the notice as required, notice shall be provided by mail or personal delivery to:

- A. The owner(s) of the property for which approval is being considered and/or to the person(s) requesting the interpretation or appealing the decision, as applicable; and
- B. To all persons to whom real property is assessed within three hundred (300) feet of the property, regardless of whether the property is located within the City of Grand Haven; and
- C. Occupant(s) of all structures within three hundred (300) feet of the property, regardless of whether the occupant(s) are located within the City of Grand Haven. If the name of said occupant(s) is not known, the notice may be addressed to "occupant."

SEC. 40-123. – REAPPLICATION.

No application for a special land use, site plan review and approval, planned unit development, variance or interpretation of the zoning ordinance which has been denied, in whole or in part, by either the city council, planning commission, or the zoning board of appeals may be resubmitted for a period of twelve (12) months from the date of the denial, except on the grounds of newly discovered evidence.

SEC. 40-124. - REHEARING.

- A. The city council, planning commission, or zoning board of appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
 - 1. The applicant who brought the matter before the planning commission or zoning board of appeals made misrepresentations concerning a material issue, which was relied upon by the planning commission or zoning board of appeals in reaching its decision.
 - 2. There has been a material change in circumstances regarding the planning commission's or zoning board of appeals' findings of fact which occurred after the public hearing.
 - 3. The city's legal counsel by written opinion states that in the legal counsel's professional opinion the decision made by the planning commission or zoning board of appeals or the procedure used in the matter was clearly erroneous.
- B. A rehearing may be requested by the applicant or by the zoning administrator, or a rehearing may be granted by the planning commission or zoning board of appeals on its own motion, pursuant to the following procedure:
 - 1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the planning commission's or zoning

board of appeals' minutes regarding the decision for which the rehearing is being requested.

2. A request for a rehearing made by the zoning administrator or a rehearing granted by the planning commission or zoning board of appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
 3. Whenever the planning commission or zoning board of appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the planning commission or zoning board of appeals holds a hearing at which it considers whether to grant a rehearing.
- C. If the planning commission or zoning board of appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

SEC. 40-125. - FEES, ESCROWS, AND PERFORMANCE GUARANTEES.

- A. *Fees and escrow accounts.* The city council shall establish a schedule of fees and escrow amounts to be paid by applicants for any permit, review, approval, appeal or other service provided in this ordinance. All such fees shall be paid at the time of application. A schedule for returning escrow fees to the developer shall be determined by the city council.
- B. *Performance guarantees.* In approving any variance, any conditional, temporary or special approval permits, any site plan, or any planned development, the zoning administrator may recommend and the planning commission, the zoning board of appeals, or the city council, may require that a performance guarantee be furnished to ensure compliance with the requirements, specifications and conditions imposed with that approval and to ensure the discontinuance of a temporary use by a stipulated time.
 1. Such performance guarantee may be in the form of a cash deposit, certified check, performance bond, irrevocable bank letter of credit, all in a form and containing such provisions as are acceptable to the approving official or body and to the city's legal counsel.
 2. Such performance guarantee shall be in a principal amount reasonably estimated to enable the city to recover any costs the city incurs to complete such work or otherwise assure compliance with the requirements, specifications, and conditions of such approval should the applicant fail to do within the time specified within the approval. The zoning administrator, the city manager, the city's legal counsel and the

applicant shall work together to establish the amount needed to reasonably cover the costs of non-performance. The terms of the performance guarantee may, but shall not be required to, provide for partial releases of the amount of the guarantee as the requirements, specifications and conditions imposed with the approval are fulfilled. If the applicant disagrees with the city staff as to the amount needed to reasonably cover the costs of non-performance, the body or official first giving the approval shall determine the amount required.

3. Such costs include, but are not limited to:
 - a. Costs incurred for design and construction engineering or architectural services;
 - b. Amounts paid to any contractors constructing, installing or demolishing any buildings, structures or other improvements;
 - c. Costs for any infrastructure construction, installation, improvement or replacement;
 - d. Costs for any excavation or site work;
 - e. Legal expenses incurred to investigate and in any way address any non-performance, to collect any amounts due the city, or that are in any other way related to non-performance of the applicant's responsibilities under the terms of such approval;
 - f. Costs of any signage, pavement marking or similar informative efforts;
 - g. Costs of any required meeting or other notices;
 - h. Costs of any compensation, including fringe benefits and overtime, paid to city staff address such non-performance; and
 - i. The reasonable rental value of any city vehicles, tools, and equipment used to address such non-performance.
4. The performance guarantee shall be provided before any permits are issued pursuant to this ordinance or the construction code and the failure of any such performance guarantee shall be a basis for revoking any permit granted under this ordinance or the construction code.

SEC. 40-126. - VIOLATIONS.

- A. If the zoning administrator shall find that any of the provisions of this ordinance are being violated, he/she shall notify the person responsible for such violation, indicating the nature or the violation and ordering the action necessary for correction. He/she shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures or of illegal addition, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this ordinance or general law to ensure compliance with or to prevent violation of the provisions of this ordinance.

- B. Unless otherwise specifically provided, the violation of any provision, section, rule, or regulation or order adopted or issued in pursuance thereof, of this zoning ordinance, shall be a municipal civil infraction. Persons determined responsible for a municipal civil infraction shall be punished in accordance with this section 40-126.
1. Penalty. A municipal civil infraction shall be punished by a fine of not less than fifty dollars (\$50.00) or more than twenty-five hundred dollars (\$2,500.00) and the costs of prosecution of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00).
 2. Separate offense. Each act of violation and every day during which a violation continues shall be deemed a separate offense.
 3. Additional penalties. The penalty provided by this section shall be in addition to the abatement of the violating condition, any injunctive relief or revocation or any permit or license provided pursuant to this, or any other ordinance of the City of Grand Haven.
 4. Compliance required. The imposition of any sentence shall not exempt an offender from compliance with the provisions of this ordinance.
 5. Relief. The foregoing penalties shall not prohibit the City of Grand Haven from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.