

ARTICLE III. – GENERAL PROVISIONS

SEC. 40-300. - PURPOSE AND SCOPE.

It is the purpose of this article to set forth regulations that may apply generally in all zoning districts to all permitted uses and special uses and to provide detail on how the standards of this ordinance shall be applied. The use 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. 40-301. - ACCESSORY BUILDINGS.

Sec. 40-301.01. - General standards for accessory buildings.

- A. In conjunction with principal use:
 - 1. All accessory buildings shall be permitted only in conjunction with a principal use and principal building on the same lot.
 - 2. Accessory buildings may only be constructed at the same time as or after the construction of the principal building on the same lot. Accessory buildings may only be maintained in conjunction with a principal building on the same lot. If the principal building is destroyed, demolished, or removed, the accessory building shall also be demolished or removed.
- B. An accessory building shall require zoning administrator review of a site plan in accordance with subsection 40-115.04.C. An accessory building with a footprint greater than the footprint of the principal building may be permitted as a special land use subject to the standards of the applicable zoning district and article V.
- C. Number and area of accessory buildings.
 - 1. In the following zoning districts, not more than two (2) accessory buildings shall be permitted:

• SFRLDR, Low-Density Single-Family Residential	• E, Easttown
• NS, North Shore	• OT, Old Town
• MDR, Moderate Density Residential	• B, Beechtree
• DR, Dune Residential	• NMU, Neighborhood Mixed Use
• S, Southside	

2. In other zoning districts, there shall be no limit on the number of accessory buildings.
3. For the purposes of this section, a private garage which is attached to a dwelling with a common roof of wall, or breezeway, shall be considered a part of the principal structure and not an accessory building, and shall conform to the setback, height and other applicable regulations of this zoning ordinance pertaining to the principal permitted building.
4. An accessory dwelling unit shall be further regulated under section 40-525 hereof.

Sec. 40-301.02. - Dimensional requirements for accessory buildings.

A. *Size of accessory buildings:* An accessory building, or buildings shall comply with the following:

1. Building height:

- i. In the ~~LDR~~~~SFR~~, MDR, MFR, DR, NS, S, E, OT, NMU, OS, CB, and CC, no accessory building, other than accessory dwellings regulated per section 40-525, shall exceed the following heights:

Principal building height	Maximum permitted accessory building height
Less than 18 feet	May not exceed height of principal structure
Between 18' and 23'	May not exceed 18 feet
Greater than 23 feet	May not exceed 80% of the height of the principal structure <u>building</u>

2. Square footage:

- i. Unless otherwise stated in this section, the combined area of all accessory buildings shall not exceed the footprint of the principal permitted building, except in accordance with section 40-502.
- ii. An accessory building shall not exceed one thousand (1,000) square feet in footprint area within the ~~SFR~~LDR, MDR, DR, NS, S, E, OT, B or NMU districts.

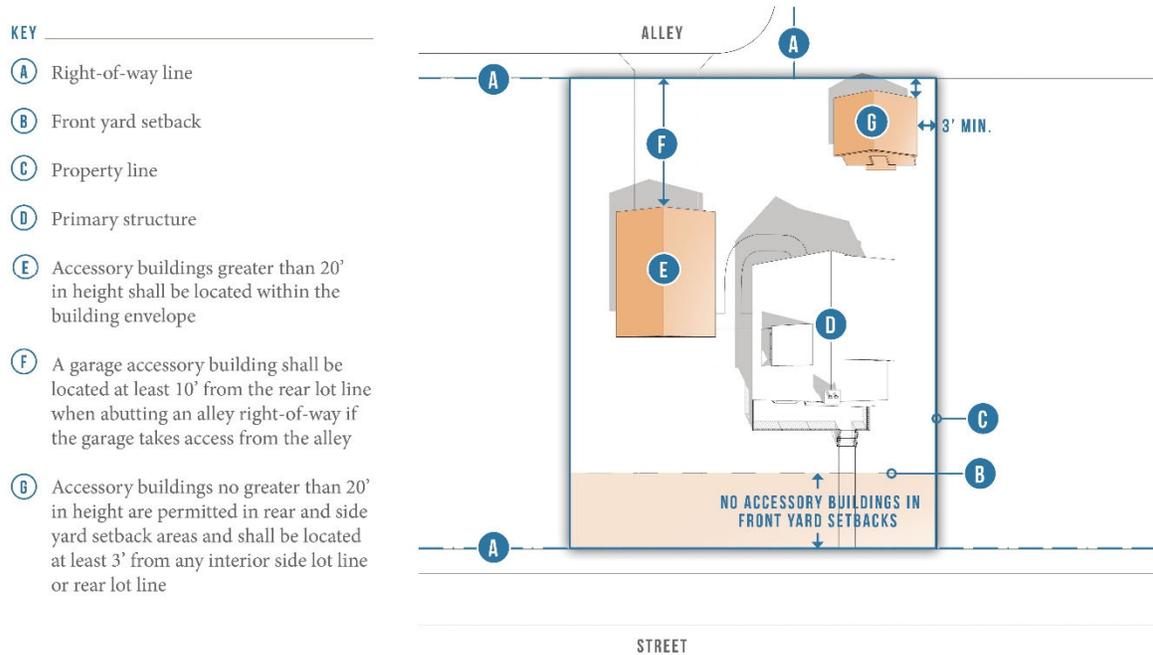
- iii. No accessory building or buildings shall occupy more than twenty-five (25) percent of the ~~rear individual~~ yard in which it is located in the ~~SFR~~LDR, MDR, DR, NS, S, E, OT, B, or NMU districts.

B. *Setbacks and placement:*

1. An accessory building is not permitted in any required front or corner front setback area.
2. An accessory building no greater than twenty (20) feet in height shall be located at least three (3) feet from any interior side lot line or rear lot line and no portion of an accessory building, such as eaves or other attachments, shall be located less than two (2) feet from any lot line.
3. Accessory buildings greater than twenty (20) feet in height shall meet the required be located within the setbacks for principal buildings in of the underlying zoning district.
4. An accessory building shall be located at least one foot from the rear lot line where the rear lot line abuts an alley right-of-way, except if said accessory building is a garage which is accessed from an alley, it shall be setback a minimum of ten (10) feet from the alley right-of-way line to permit safe vehicular ingress and egress.
5. On a through lot as defined herein, an accessory building shall comply with the front yard setback requirement for both street frontages.
6. A detached accessory building shall be located at least six (6) feet from any principal structure.

ACCESSORY BUILDING SETBACKS AND PLACEMENT

FIGURE 3-1



Sec. 40-301.03. - Accessory structures.

- A. **Accessory structures.** Accessory structures, except where otherwise permitted and regulated in this section, shall be located in the rear yard and shall meet the setback requirements of an accessory building.
- B. **Flagpoles.** Flagpoles not exceeding twenty (20) feet in height are permitted in any required setback area, provided that flagpoles shall be no closer to a public right-of-way than one-half ($\frac{1}{2}$) the distance between the right-of-way and the principal building. A flagpole meeting the standards of this subsection shall not require a site plan. Flag poles taller than twenty (20) feet shall not be located within the setback areas and shall not exceed the height requirements of the underlying zoning district.
- C. **Automobile gas station canopies.** Canopies covering gasoline pump islands may extend into the required front or exterior side yards to a point ten (10) feet from the lot line.
- D. **Private communication antennas.**
 1. **Placement:** Ground-mounted private communication antennas shall be located in the rear yard; provided, when it is determined such antennas will not be visible from a street, they may be located in an interior side yard but not within the minimum required setback area. Wiring between a ground-mounted antenna and a receiver shall be placed at least eight (8) inches beneath the ground within a conduit.
 2. **Setbacks:** Antennas located on the ground shall observe all setbacks pertaining to an accessory building.

3. *Height:* No antenna, including extendable antennas, shall exceed the maximum height requirements of the district in which it is located when fully extended and shall be placed so that a horizontal distance at least equal to the vertical height of the antenna is provided between the base of the antenna and the nearest property line. Provided, where an antenna extending upward from the ground is securely attached elsewhere to a building, the required distance to the nearest property line may be measured from the building attachment to the top of the antenna. All such antennas may be attached to a pole, a tower or to a rooftop of a principal or accessory building, provided all applicable structural and electrical code requirements are met.
 4. *Size:* On a parcel or lot used or zoned for any residential use, including mixed use, no roof, wall, pole or tower-mounted antenna shall exceed a dimension of five (5) feet by five (5) feet or a diameter of five (5) feet. Ground-mounted antenna shall not exceed a dimension of twelve (12) feet by twelve (12) feet or a diameter of twelve (12) feet. On a parcel or lot used or zoned for other uses, no roof, pole or tower-mounted antenna shall exceed a dimension of twelve (12) feet by twelve (12) feet or, a diameter of twelve (12) feet. Ground-mounted antenna shall not exceed a dimension of sixteen (16) feet by sixteen (16) feet or, a diameter of sixteen (16) feet. Antennas less than the dimensions in this subsection D.4 shall not require a permit.
- E. *Solar energy panels.* Ground-mounted solar energy panels shall observe all applicable requirements for an accessory building. Roof or wall-mounted panels shall be mounted either flat against the surface or shall not project more than four (4) feet outward from the surface measured from the surface where so affixed to the furthest outward projection of the panel.
- F. *Private swimming pool.* In-ground and aboveground private swimming pools with a depth of greater than two (2) feet shall:
1. Comply with the standards of the Code of Ordinances.
 2. Be located at least four (4) feet from any property line or the principal building and shall be located in the side or rear yard.
 3. Swimming pools shall be enclosed by a fence or wall at least four (4) feet in height and in such a manner that no person may enter the yard or area where the pool is located without passing through a gate or door located on the lot or parcel where the pool is located, pursuant to building code requirements.
- G. *Arbors, trellises, and play equipment.* Arbors, trellises and play equipment shall comply with the following requirements:
1. Maximum height shall be twelve (12) feet.
 2. Arbors and trellises are permitted within all yards; provided, that arbors and trellises are set back a minimum of three (3) feet from all property lines and in accord with section 40-307, clear vision corners.

3. Not more than fifty (50) percent of the front yard shall be occupied by such arbors, trellises, or play equipment.
- H. *Dumpster enclosures.* Dumpsters or other refuse or recycling containers shall be enclosed and such enclosures shall comply with the following requirements:
1. Where applicable, the enclosures shall consist of the same masonry materials and colors used in the front facade of the principal building(s); provided, that cinder block or conventional concrete block shall be prohibited and provided further, that where the principal building is wood sided, a masonry dumpster enclosure shall be provided.
 2. The enclosure shall be four-sided with a lockable gate constructed of opaque materials; provided, the zoning administrator or planning commission may permit that the enclosure be three-sided where site dimensions make a four-sided enclosure impractical and where the three-sided enclosure will effectively screen the dumpster from view from the adjoining right-of-way.
 3. Walls of the enclosure shall be six (6) feet in height.
 4. Interiors of enclosures shall be kept clean and free of debris and clutter.
 5. The planning commission may waive any of the requirements of this subsection where it determines that such modification of standards would further the intent and purpose of this zoning ordinance without negative impact on the aesthetics of the district.
- I. *Other accessory structures.* The zoning administrator shall review a site plan in accordance with subsection 40-115.04.C for other accessory structures and may require review by the planning commission. The zoning administrator or planning commission may impose reasonable requirements on other accessory structures to facilitate the general health, safety and welfare of the city.

SEC. 40-302. - ACCESSORY USES.

Sec. 40-302.01. - In general.

- A. When an activity or use is conducted in conjunction with another principal use and the former use; (1) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (2) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. Uses may be considered accessory to the principal use regardless of whether the accessory use is separately identified in this ordinance as a permitted or special use.
- B. For purposes of interpreting accessory uses:
1. A use may be regarded as incidental or insubstantial if the viability of the principal use is not dependent in any significant way on the accessory use.

2. To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
3. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, that are significantly greater than or more burdensome than such impacts from the main use on the property.

Sec. 40-302.02. - Sidewalk cafes.

- A. The city may issue revocable annual permits to sidewalk cafes, of which there exist two (2) types, per subsections 40-302.02.B and 40-302.02.C. All sidewalk cafes shall comply with the following general requirements:
 1. The sidewalk on which the cafe is to be located shall be flat and in good repair.
 2. The cafe's location and use on the sidewalk shall not interfere with the clear vision of a motorist on the adjoining street, particularly at any intersection of the sidewalk and another street or alley. The area occupied by the sidewalk cafe shall not extend laterally along the sidewalk beyond the building frontage of the business operating the sidewalk cafe.
 3. The cafe's location shall leave a clear and unencumbered area of not less than five and one-half (5½) feet between the edge of the eating area (as defined on the site plan) or fence and any other obstruction (including utility poles, light fixtures, street furniture, planters, plants, trash receptacles, etc.) for pedestrian circulation.
 4. All construction involved with a sidewalk cafe shall be of a temporary nature and shall be subject to review and approval by the city prior to installation in accordance with subsection 40-115.04.D.
 5. The property owner and operator of the establishment shall keep the area clean and free of all paper, trash, refuse, and debris, and shall power wash the sidewalk or public way when necessary.
 6. The eating area may be covered by a temporary structure such as a canopy or awning, or umbrella-type shades affixed, in a manner acceptable to the city, secure to a table or to the sidewalk. No advertising or signs will be allowed on the temporary structures. All temporary structures must be totally within the area permitted for the sidewalk cafe use.
 7. Materials, including outdoor furniture and accessory items used in conjunction with the sidewalk cafe, shall be secured for normal wind load when the establishment is closed during the season of operation provided. Plastic or resin furniture is not permitted. During periods other than the period of operation as

defined by the applicant, all outdoor furniture and accessories shall be stored elsewhere.

8. Outdoor cooking is not permitted.
9. The city council may from time to time adopt by resolution additional regulations governing hours of operation, lighting, noise, and other aspects of sidewalk cafe operations. Further, the city may adjust the permit fees from time to time as deemed appropriate.

B. *Mini-cafe requirements*: In addition to the general requirements of subsection 40-302.02.A, a mini-cafe, defined as a sidewalk cafe comprised of bistro tables which seat no more than two (2) persons, and which does not provide wait staff and which does not serve alcohol, shall comply with the following:

1. When placed on the sidewalk, all tables and chairs shall be located immediately adjacent to the building in a single-file row and as far away from the street curb as possible unless otherwise approved.
2. Prior to the issuance of a sidewalk cafe permit for a mini-cafe, a fee in the amount established by city council resolution shall be paid by the applicant to the city. The permit shall include the dates and duration of the sidewalk cafe. Any permit so issued shall be subject to immediate revocation by the city for failure to meet or to maintain the area of the sidewalk cafe in strict accordance with the requirements of this zoning ordinance or to comply with other applicable laws, rules, regulations, orders or directives.

C. *Semi-permanent cafe requirements*: In addition to the general requirements of subsection 40-302.02.A, a semi-permanent cafe, defined as a sidewalk cafe that serves alcohol, provides wait staff for its patrons, or has tables that seat more than two (2) persons, shall comply with the following:

1. The applicant shall enter into a lease-license agreement with the city for the sidewalk space for exclusive use of the sidewalk cafe.
2. Appropriate screening and/or fencing shall be provided. Such barrier shall be no more than three (3) feet in height and must be selected from a prescreened palette of fencing options provided by the city.
3. Prior to the issuance of a sidewalk cafe permit for a semi-permanent cafe, a fee in the amount established by city council resolution shall be paid by the applicant to the city. The permit shall include the dates and duration of the sidewalk cafe. Any permit so issued shall be subject to immediate revocation by the zoning administrator for failure to meet or to maintain the area of the sidewalk cafe in strict accordance with the requirements of this zoning ordinance or to comply with other applicable laws, rules, regulations, orders or directives.
4. Semi-permanent cafes may serve patrons until 10:30 p.m. and must relocate all patrons indoors and close the cafe by 11:00 p.m.

D. Application process:

1. All sidewalk cafes shall be subject to approval by the zoning administrator. Applications shall include any information deemed necessary by the zoning administrator and the following:
 - a. The name(s), address(es) and telephone number(s) of the owner(s), operator(s) and responsible person(s).
 - b. The proposed dates and hours of operation.
 - c. A site plan in accordance with subsection 40-115.04.C.
 - d. A photograph and/or description of proposed café furniture.
 - e. Semi-permanent café applications shall include the selected barrier per city specifications.
2. The applicant shall execute an agreement stipulating, at the applicant's sole expense, to hold the city and its elected and appointed officials, employees and agents harmless from, indemnify them for, and defend them (with legal counsel reasonably acceptable to them through any appellate proceedings they wish to pursue until a final resolution settlement or compromise approved by them) from any liability for loss, damage, injury or casualty to persons or property caused or occasioned by or arising from any act, use or occupancy or negligence by or of the applicant and any of its agents, servants, visitors, licensees, or employees occurring during the term of the agreement or any extended term.
3. The applicant shall furnish to the city a certificate or other evidence indicating that the applicant has had issued to it a policy or policies of insurance against damage to city property in such amounts as the city, from time to time, shall determine by resolution of the planning commission or city council. The certificate(s) of insurance shall show the city as a certificate holder and an insured and shall provide that coverage may not be terminated without thirty (30) days' prior written notice to the city. Such insurance must provide coverage of the city and its officers, employees and agents for any occurrence during the term of the permit. Upon request, the applicant shall also provide the city a copy of the insurance policy(cies).
4. The applicant shall secure and maintain any legally required workers' disability compensation and unemployment compensation insurance.
5. The permits which the city may issue are revocable annual permits.

SEC. 40-303. - ACCESS TO PUBLIC STREETS.

- A. In every zoning district, every use, building, or structure established after the effective date of this ordinance shall be located on a parcel which abuts a public ~~road-street~~ or a private ~~road-street~~ or easement which provides access to a public ~~roadstreet~~.
- A.B. ~~such~~ Such private ~~road-street~~ or easement ~~must~~ being at least forty (40) feet in width, unless a lesser width was duly established of record prior to the effective date of

this ordinance or as part of a planned unit development, provided that private easements in all cases shall be at least twenty (20) feet in width.

SEC. 40-304. - ANIMALS.

Any other provision of this chapter notwithstanding, the keeping, housing, raising, use, or medical care of farm or exotic animals, other than up to three (3) house pets, belonging to an occupant of the premises, is prohibited in all districts within this ordinance. Veterinary hospitals, [kennels, and animal day care facilities](#) shall be permitted by right or by special land use only as set forth in article IV hereof.

- A. No person shall keep honeybees unless they obtain a honeybee permit and comply with the following conditions:
 1. The maximum number of hives permitted per property shall be as follows:
 - a. Two (2) hives for properties with a lot that is not greater than eleven thousand (11,000) square feet in area.
 - b. Four (4) hives for properties with a lot area of greater than eleven thousand (11,000) square feet and not greater than twenty-two thousand (22,000) square feet in area.
 - c. Five (5) hives for properties with a lot area greater than twenty-two thousand (22,000) square feet and not greater than forty-three thousand five hundred sixty (43,560) square feet.
 - d. Eight (8) hives for properties with a lot area of greater than forty-three thousand five hundred sixty (43,560) square feet (one acre) in area.
 - e. One additional hive is allowed for each additional acre of land.
 2. Each hive shall have a maximum size of twenty (20) cubic feet.
 3. A flyway barrier at least six (6) feet in height shall shield any part of a property line that is within twenty-five (25) feet of a hive. Such flyway barrier must be at least four (4) feet in width. The flyway barrier shall consist of a wall, fence, dense vegetation or a combination thereof.
 4. A constant supply of water shall be provided for all hives.
 5. All hives shall be located at least six (6) feet from any property line, and where public sidewalk is present at least ten (10) feet distant from it.
 6. The applicant shall pay the fee required by the fee resolution periodically adopted by the city council.
 7. Applications for ~~original and renewal~~ honeybee permits shall be submitted to, and permits shall be issued by, the planning and community development department. ~~Permits shall be issued within one week if the applicant demonstrates that it meets all conditions of this section.~~

8. An initial honeybee permit shall be valid indefinitely or until the property is sold or transferred to another owner, unless suspended or revoked. ~~for three (3) years from the date of issuance. A renewal honeybee permit shall be valid for two (2) years from the date of issuance.~~
9. Applications for a honeybee permit, renewals, and suspensions or and revocations shall be handled in the manner provided in chapter 21 licenses.

B. *Backyard chickens.* The intent of these regulations is to allow the raising of backyard chickens in single-family neighborhoods while protecting the urban character of the community. The keeping of backyard chickens is distinct from consideration of keeping other types of animals because chickens do not graze and require a small, contained area that is in keeping with the lot sizes in the City of Grand Haven.

No person shall keep chickens unless they obtain a backyard chicken permit and comply with the following conditions:

1. The keeping of chickens is permitted only on lots where the principal use is a single-family dwelling.
2. Chickens are prohibited on property located within the Sensitive Areas Overlay district.
3. The maximum number of chickens permitted per property shall be six (6). Roosters are prohibited.
4. Chickens must be maintained in a fully enclosed, roofed structure at all times.
5. The enclosure must be constructed of permanent residential building materials suited for the purpose intended, and in a manner which serves to enhance the aesthetic appearance of the neighborhood or surrounding area.
6. All areas accessible to the chickens, including the coop and run, shall be contained in a single structure not to exceed sixty (60) square feet in footprint and eight (8) feet in height measured from the grade. The minimum run size per chicken shall be eight (8) square feet.
7. The enclosure must have chicken wire or similar material embedded twelve (12) inches into the ground around the enclosure to deter predators from digging under the enclosure wall.
8. The enclosure shall be located in the rear yard and at least eight (8) feet from side and rear property lines, and where public sidewalk is present at least ten (10) feet distant from it.
9. The enclosure must be maintained in a clean and orderly fashion.
10. Chicken feed must be kept in a vermin-proof sealed container.
11. Slaughtering of chickens is not permitted.
12. The applicant shall pay the fee required by the fee resolution periodically adopted by the city council.

13. Applications for ~~original and renewal~~ backyard chicken permits shall be submitted to, and permits shall be issued by, the planning and community development department. ~~Permits shall be issued within one week if the applicant demonstrates that it meets all conditions of this section.~~
14. An initial backyard chicken permit shall be valid indefinitely or until the property is sold or transferred to another owner, unless suspended or revoked. ~~for three (3) years from the date of issuance. A renewal backyard chicken permit shall be valid for three (3) years from the date of issuance.~~
15. Upon sale or transfer ~~if a renewal permit is not obtained~~, the chickens and enclosure must be removed from the premises within sixty (60) days after the expiration of the permit.
16. Applications for a backyard chicken permit, ~~renewals~~, suspensions, and revocations shall be handled in the manner provided in chapter 21 licenses.

(Ord. No. 15-01, § 1, 1-5-15; Ord. No. 15-09, § 1, 11-2-15; Ord. No. 19-08, §§ 1—3, 3-4-19)

SEC. 40-305. - RESERVED.

SEC. 40-306. - USES AND DIMENSIONAL REQUIREMENTS.

Sec. 40-306.01. - One principal use per parcel.

Each parcel in the city shall be limited to not more than one principal use; provided that multiple-tenant or multiple-occupant commercial, industrial or mixed use developments, including developments consisting of more than one building, residential above retail or office uses, and live/work structures may be regarded as single uses if approved pursuant to the standards of this ordinance.

Sec. 40-306.02. - Maintenance of required spatial relationships.

- A. The continuing maintenance of required spatial relationships and physical requirements of this ordinance for a use, structure, building, and/or parcel shall be the obligation of the owner of the use, structure, building and parcel.
- B. Required spatial relationships and physical requirements of this ordinance shall apply uniformly within each respective zoning district to all uses, structures, buildings and parcels.

Sec. 40-306.03. - Reserved.

Sec. 40-306.04. - Determining parcel dimensions, required yards and setbacks.

Required setback distances shall be measured perpendicular to and from the property line or edge of right-of-way or water's edge toward the center of the parcel. For non-platted parcels, where the front lot line is the roadway centerline, setbacks shall be measured from the edge of the right-of-way. Building setback lines shall parallel the parcel line from which they are

measured. All measurements of setback distances shall be completed in accordance with the following standards:

- A. Setback measurements shall be taken from the lot line to the building foundation, or, in the event of a cantilevered building, to the predominate cantilevered wall face.
- B. Except as provided in section 40-306.05, or in the respective zoning districts and regardless of the shape of the parcel or the position of the building on the parcel, an existing or proposed building shall be so located as to meet the required setback standards of the zoning district.
- C. Parcel width shall be measured at the front yard setback line.

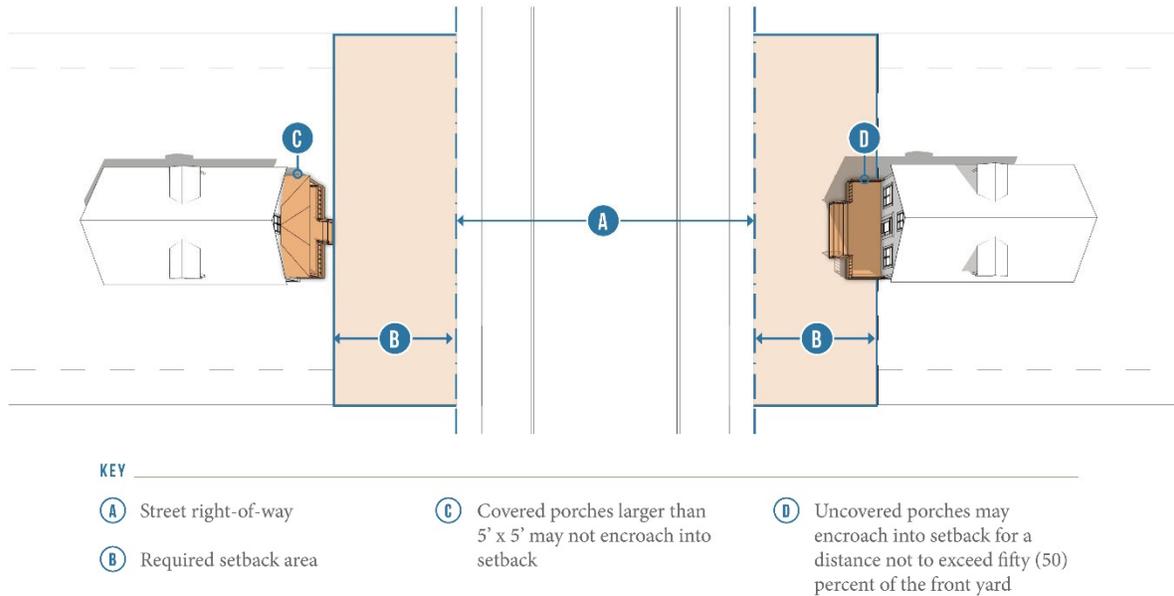
Sec. 40-306.05. - Porches, decks and other projections into required yards.

A. Projections into required front yards.

- 1. Open, unenclosed and uncovered porches, stoops, steps, decks and paved ~~terraces-patios~~ may project into a required front yard for a distance not to exceed fifty (50) percent of the required front yard, ~~however,~~
- 2. ~~covered~~ Covered stoops and steps not exceeding five (5) feet in width and five (5) feet in depth may encroach up to five (5) feet into the required front yard setback.
- 3. Architectural features such as fireplaces, bay windows, and ornamentation may project into the required front yard setback by not more than two (2) feet, provided no projection shall comprise more than twenty-five (25) percent of the wall surface from which it projects.
- 4. Eaves may project two (2) feet into a required front yard.

FRONT YARD SETBACK ENCROACHMENTS

FIGURE 3-2



B. Projections into required side and rear yards.

1. Unless otherwise permitted within the particular zoning district, or by section 40-306.10, architectural features such as, but not limited to fireplaces, and bay windows, may extend or project into a required side or rear yard not more than two (2) inches for each one foot of width of such yard, but may not extend into any required yard more than three (3) feet. No projection shall comprise more than twenty-five (25) percent of the and in no instance shall any such projection extend closer than three (3) feet to a side or rear lot line. Eaves may project not more than two (2) feet into a required side or rear yard.
2. Open, unenclosed and uncovered attached or detached porches, decks and paved terraces no more than seven (7) inches in height above finished grade may extend into a required side or rear yard. Attached or detached porches, decks and paved terraces, any portion of which is more than seven (7) inches above finished grade, shall not extend into a required side or rear yard, unless otherwise permitted by section 40-306.10.

C. Steps and ramps

1. Steps or ramps which are designed to be an integral part of a deck, porch or terrace, and which are fully contained within the setback requirements for the district may extend across the full width and length of a deck, porch or terrace as

an architectural feature and may be of any width or length provided the rise between steps or access platforms, meets local building codes.

2. Steps or ramp which cannot be contained within the setback requirements of the district and which are necessary to provide access to a deck, porch or terrace, may extend beyond the setback requirements through any yard to the property line, provided they do not exceed the minimum width, length, riser height or slope ratio as set forth in the building code for a conventional staircase or ramp way.

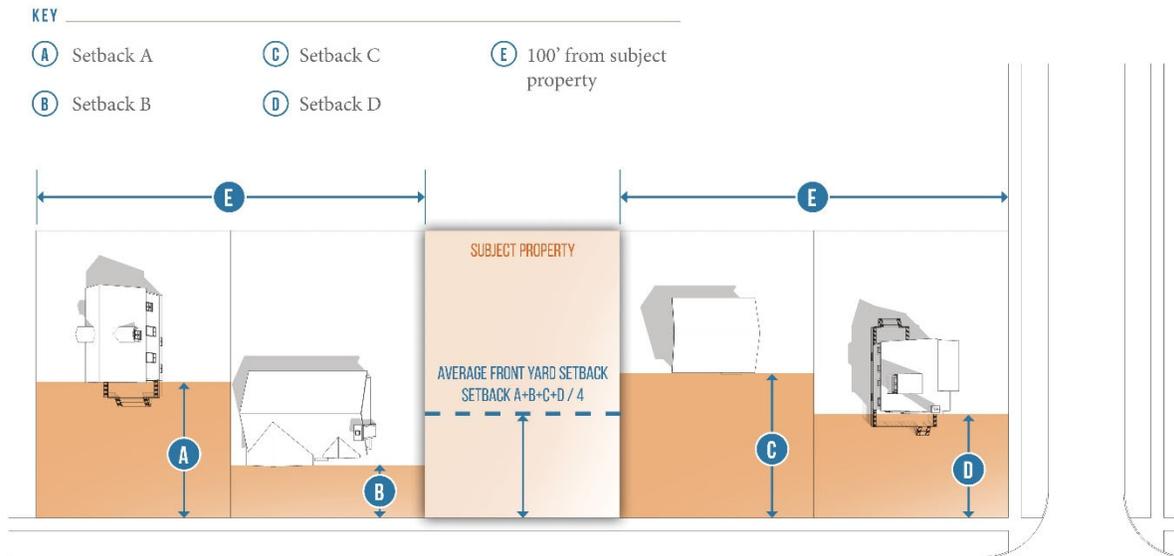
D. No below-grade or underground feature shall extend into any required front, side or rear yard, except that egress window wells may project up to three (3) feet into a required yard, provided that the outside edge of the window well is at least three (3) feet from the adjacent property line.

Sec. 40-306.06. - Front yard setback averaging.

In the event a site plan is submitted for a proposed building or improvement in an area where two (2) or more of the existing buildings, within the same block and zoning district do not meet the front yard or corner front yard setback requirements of this ordinance, at the request of the applicant the zoning administrator shall establish the minimum front yard or corner front yard setback for such proposed building or improvement by averaging all existing front yard or corner front yard setback dimensions (as applicable) on all lots within one hundred (100) feet in each direction of the side lot lines of the subject site, within the same zoning district and on the same side of the street. A minimum front yard or corner front yard setback established pursuant to this section may be based on a survey of all properties incorporated in said average at the discretion of the zoning administrator and to be provided at the applicant's expense. The provisions of this section 40-306-06 shall only apply to the DR district after meeting the requirements of subsection 40-406.02.C. In the event there are only two (2) lots on one block, the adjacent block may be used for the purposes of this paragraph, if it is within the same zoning district.

FRONT YARD SETBACK AVERAGING

FIGURE 3-3



Sec. 40-306.07. - Side yard setback for lots of substandard width.

In the MDR, DR, S, E, OT, districts and for parcels in existence as of the effective date of this ordinance that do not meet the lot width standards for the underlying district, the zoning administrator may approve a reduction of three (3) inches in each of the minimum required side yards for each one foot of reduced lot width. Provided that in no instance shall any such reduced side yard be less than three (3) feet and no portion of a building, such as eaves or other attachments, shall be located less than two (2) feet from any lot line.

Sec. 40-306.08. - Determining height and grade.

- A. *Topographical map.* There is hereby established the City of Grand Haven Topographical Map which shall be based on two-foot contour lines as determined by Ottawa County, 2004 aerial photography and adopted by the planning commission as the official basis for evaluation of any dimensional standard pertaining to the natural grade and regulated by this ordinance.
- B. *Height measurement.* For the purposes of this ordinance, building and structure height shall be measured from median natural grade, determined as follows:
 1. *Parcels outside the Dune Residential district.* In all districts other than the Dune Residential district, a median natural grade for the parcel shall be established by subtracting the lowest natural grade elevation point from the highest natural grade elevation point along the front building line, multiplying the result by 0.5 and adding the product to the elevation of the lowest point. From the resulting

median natural grade elevation, all building and structure height limits shall be determined. Building height shall be measured from said median natural grade to the uppermost point of the building or structure, such as the roof ridgeline or peak.

2. *Dune Residential district.* Within the Dune Residential district, a median natural grade shall be established for each side of a rectangle containing the building footprint as follows: On each side of said rectangle, the lowest natural grade elevation point shall be subtracted from the highest natural grade elevation point, and the result shall be multiplied by 0.5 and added to the elevation of the lowest point. The result shall be a median natural grade elevation for each of the four (4) sides of said rectangle. A maximum building height of thirty (30) feet shall be established and shall be measured from said median natural grades for each of the four (4) sides of said rectangle to the uppermost point of the building or structure located along or generally proximate to that portion of said rectangle. Where any point of a proposed building is equidistant from two (2) or more sides of said rectangle and the maximum heights determined pursuant to this paragraph result in two (2) or more maximum height values for that portion of the structure, the zoning administrator shall establish a maximum height from the determined values which shall present the least view obstruction to up gradient properties.
3. *Height limit.* Unless otherwise regulated in this ordinance, the height limitations of this ordinance shall not apply to rooftop mechanical equipment such as HVAC, chimneys, church spires, flag poles, public monuments or commercial wireless transmission towers; provided, however, that the planning commission may specify a height limit for any such structure when such structure requires authorization as a special land use. Provided, further, that all such structures shall be limited to the least possible surface area of the roof. All telecommunication towers and antennae shall be subject to the requirements of section 40-564, telecommunication and antennas and towers. Elevator shafts, stairwells, access hatches and other structures shall meet all building height requirements or permitted extensions thereof as may be permitted in particular zoning districts. Facilities, including furniture and fixtures for rooftop dining or other permanent or temporary activities shall not exceed the height limits for the particular zoning district.

Sec. 40-306.09. - Lots adjoining alleys.

In calculating the area of a lot that adjoins an alley for the purpose of applying lot area requirements, one-half ($\frac{1}{2}$) the width of such alley abutting the lot shall be considered as part of such lot.

Sec. 40-306.10. - Lots having water frontage.

The purpose of this section is to create a context-sensitive infill line which respects existing conditions and sight lines to the greatest extent feasible for all properties abutting Lake Michigan, the Grand River or another body of water.

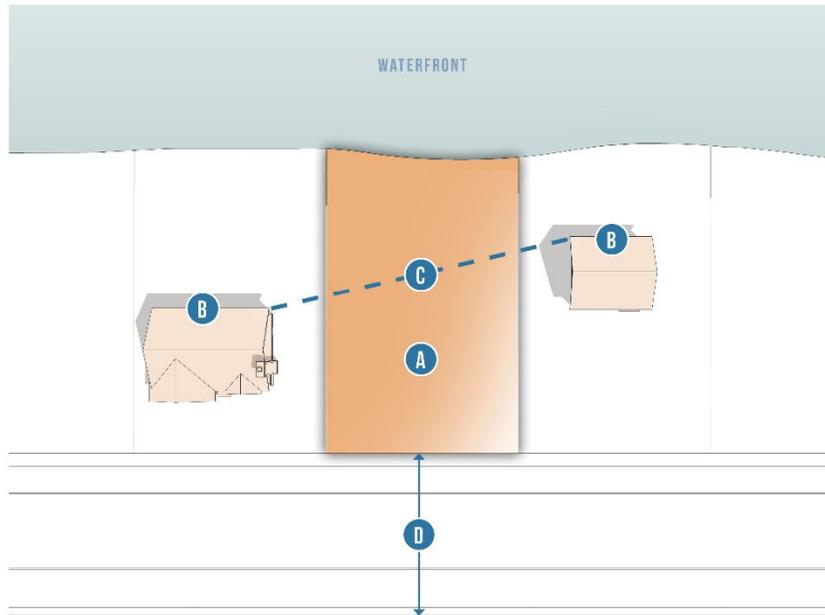
The following standards shall apply to lots having water frontage:

- A. Those residential lots or parcels having water frontage and abutting a public or private street shall maintain the yard on the water side as an open unobscured yard, excepting that a covered and/or uncovered boat well shall be permitted after review and approval of plans by the planning commission.
- B. In a waterfront area, the zoning administrator shall establish the minimum waterfront setback for a proposed building or building addition. ~~;~~ This includes all structures exceeding a height of three (3) feet above the floor of the first floor-story above grade, and including all structures with fixed or attached accessories or extensions (including, but not limited to, pergolas, retractable awnings, and trellises) which exceed a height of three (3) feet above the floor of the first floor-story above grade. To establish the average minimum waterfront setback, the following criteria shall be met:
 1. ~~A proposed building or building addition shall be no closer to the water than a straight line connecting the nearest building (other than a boathouse) on each side of the lot on which the building or building addition is proposed. Average the existing waterfront setback dimensions of all developed lots immediately adjacent to the subject site.~~ In the event that the adjacent lot(s) is/are vacant or the minimum waterfront setback is not apparent due to topography or other factors, then the zoning administrator shall determine the minimum waterfront setback. ~~;~~ then the next developed lot shall be used in the averaging providing said developed lot is within two hundred (200) feet.
 2. Setbacks distance is measured from rear (water) lot line to the nearest building wall or to the nearest structure exceeding a height of three (3) feet above the floor of the first floor-story above grade ~~for each structure~~. In the event the lot does not have a rear lot line, the zoning administrator shall establish a line to be consistent with the adjacent parcels and ensure that the intent of this section has been met.
 3. Structures that measure three (3) feet in height or less that project beyond the setback average may not project more than fifteen (15) feet into the required waterfront yard. Decks and patios below seven (7) inches above grade are exempt from this requirement providing said deck/patio does not have a railing system.

WATERFRONT SETBACK

FIGURE 3-4

- KEY
- Ⓐ Subject property
 - Ⓑ Nearest building on each side of the subject property
 - Ⓒ Minimum waterfront setback
 - Ⓓ Right-of-way

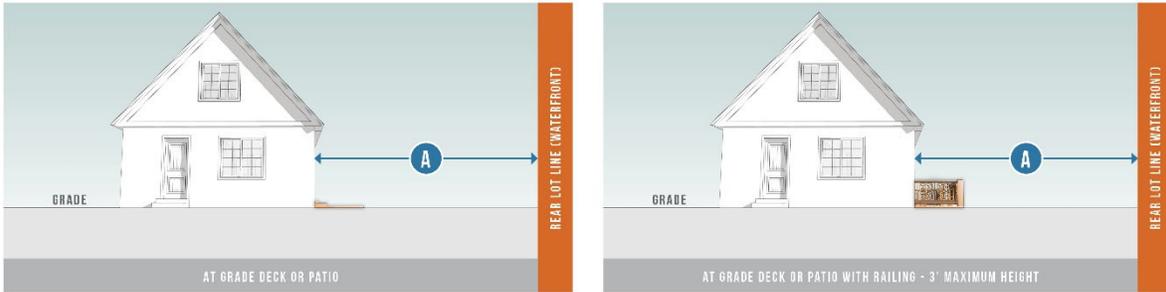


~~C. No accessory structures shall be permitted in the required front yard setbacks as set forth in subsection 40-301.02.B, dimension requirements for accessory buildings of this ordinance. For the purposes of this section, the front yard shall be defined as an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the abutting road right-of-way and the nearest point of the main building.~~

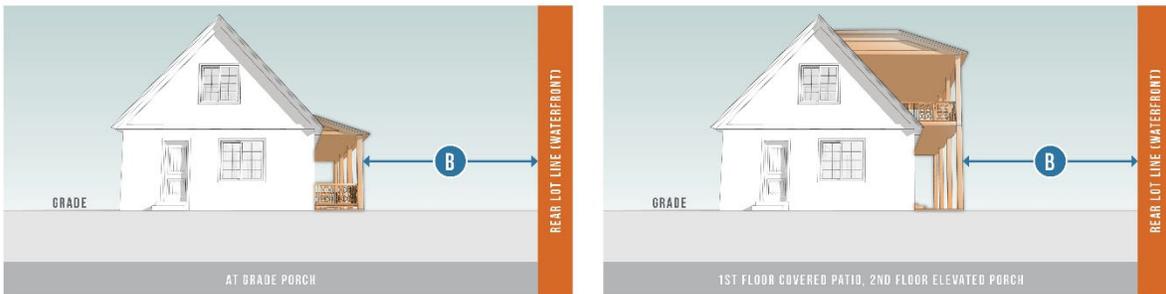
WATERFRONT SETBACK - LEVEL GRADE

FIGURE 3-5.A

- KEY — (A) Setback to building - structure under 3' in height
 (B) Setback to building - structure above 3' in height



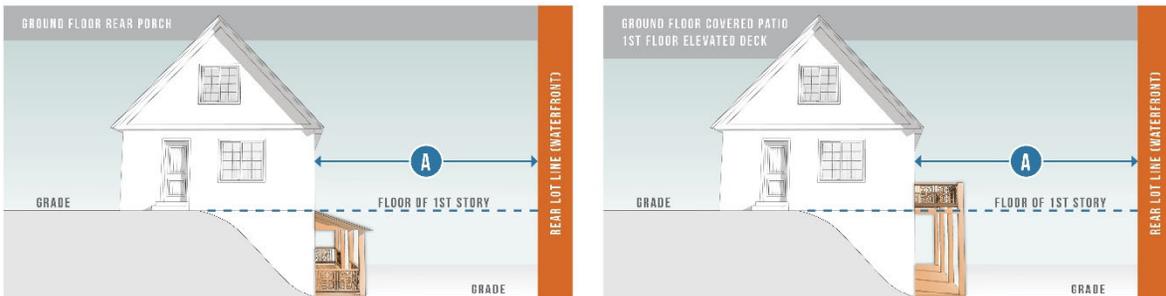
Setback distance is measured from rear (water) lot line to the nearest building wall or to the nearest structure exceeding a height of three 3'



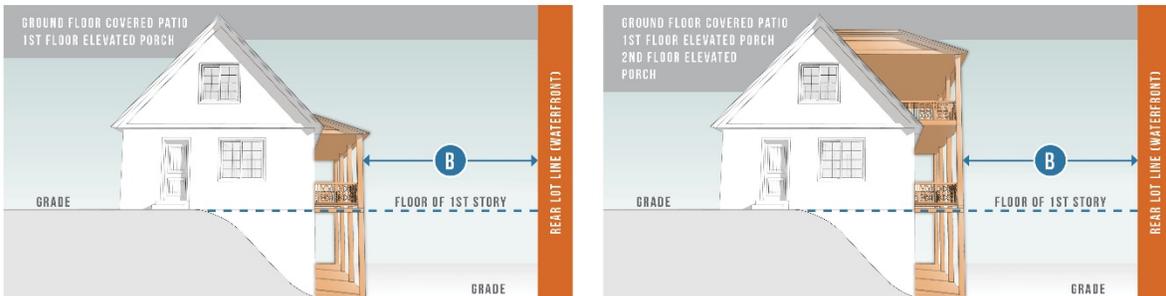
WATERFRONT SETBACK - VARIED GRADE

FIGURE 3-5.B

- KEY — (A) Setback to building - structure under 3' in height
 (B) Setback to building - structure above 3' in height



Setback distance is measured from rear (water) lot line to the nearest building wall or to the nearest structure exceeding a height of three 3'

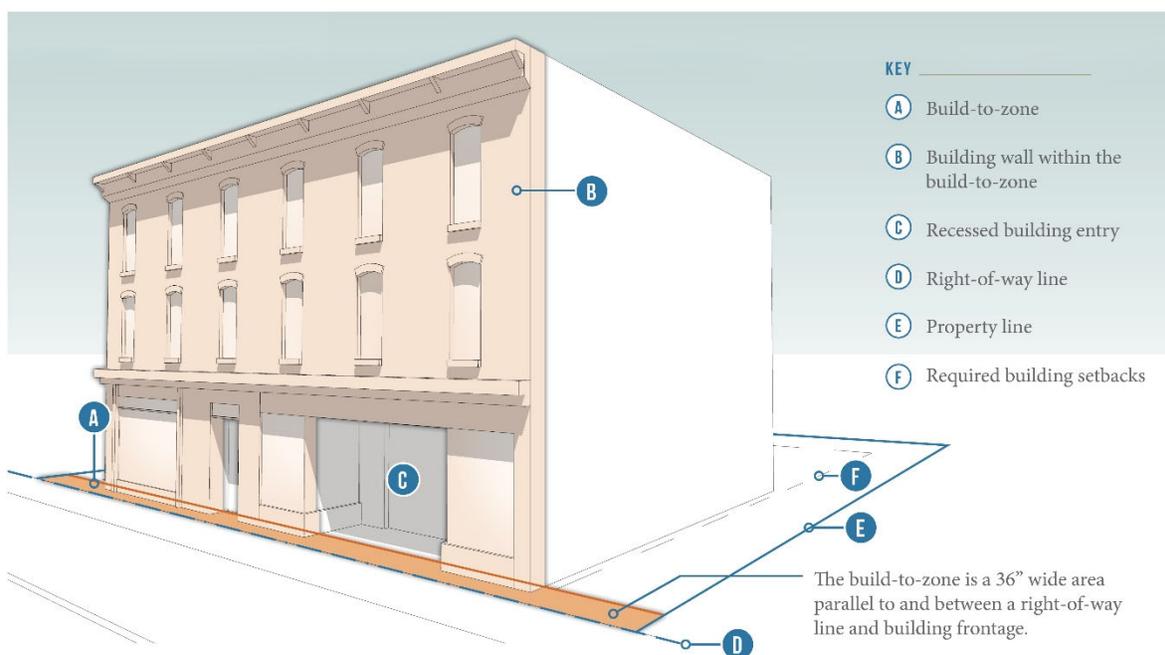


Sec. 40-306.11. - Measuring transparency.

Transparency of the ground floor facade is measured from grade to the ceiling height of the first story for that portion of the facade facing the public street. Transparency for upper stories is measured from the floor of the upper story to the ceiling of the upper story for that portion of the facade facing the public street.

Sec. 40-306.12. - Measuring build-to zone.

BUILD-TO-ZONE
FIGURE 3-6



A build-to zone is a thirty-six-inch wide area parallel to and between a right-of-way line and building frontage. Build-to zones are required in the NMU, CB, and WF-2 districts requiring a significant percentage of the building's front wall to be located within a thirty-six-inch zone back from the right-of-way line. The purpose of the build-to zone is to encourage a continuous building frontage close to the sidewalk providing visual interest to passersby.

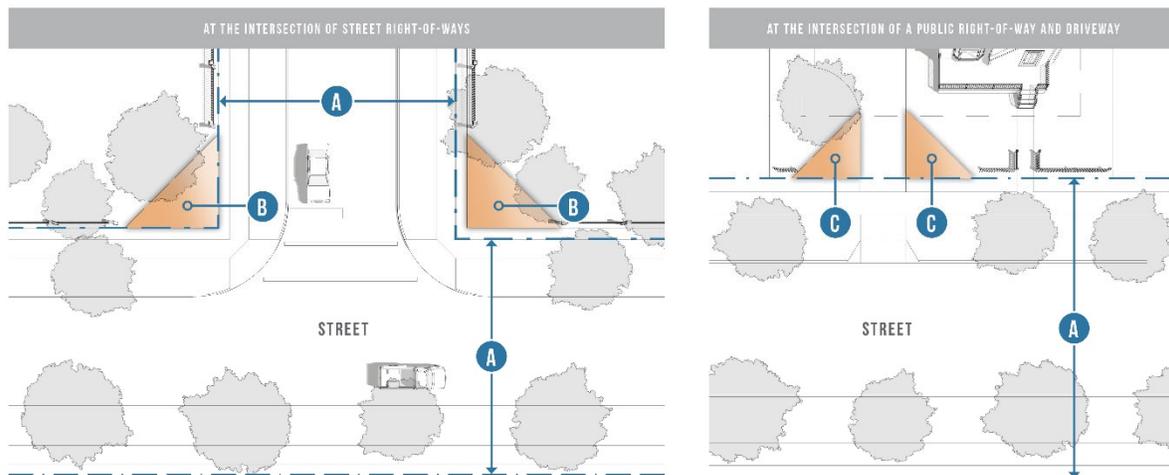
SEC. 40-307. - CLEAR VISION CORNERS.

Clear Vision Corner

- A. No fence, wall, shrubbery, sign or other obstruction to vision above a height of three (3) feet from the established sidewalk grade shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection; except that in the interest of public safety, clear vision requirements may be made more restrictive upon recommendation of the department of public safety.

CLEAR VISION CORNER

FIGURE 3-7



KEY

- (A) Right-of-way
- (B) Clear vision corner at the intersection of any street right-of-way: Triangular area drawn along right-of-way lines at a distance of twenty-five (25) feet from the point of intersection
- (C) Clear vision corner at the intersection of public right-of-way and a driveway or alley: Triangular area drawn along right-of-way lines at a distance of fifteen (15) feet from the point of intersection

- B. Wherever a lot line intersects a public right-of-way, driveway or alley, no obscuring wall of any kind shall be permitted and no shrubbery, sign, or other obstruction to vision above a height of three (3) feet from the established sidewalk grade shall be permitted within the triangular area formed at the intersection of a lot line and right-of-way line, a distance along each line of fifteen (15) feet from their point of intersection.
- C. Entry structures, including but not limited to, walls, columns, and gates, marking entrances to single-family subdivisions or multiple housing projects are permitted and may be located in a required yard; provided that the structure achieves the requirements of this section; and provided further that such entry structures shall comply with all codes of the city and shall be approved by the building department and a permit issued.
- D. The clear vision corner requirement shall not apply to properties in the NMU, CB, or WF-2 districts where the build-to zone requirement applies; except that for reasons of public

safety, clear vision requirements may be required by the planning commission upon the recommendation of the public safety director.

SEC. 40-308. - CONDOMINIUMS.

Condominiums shall be considered a legitimate form of property division and ownership in the city regulated as other forms. Attached condominiums, whether townhouse, duplex or multi-story structures shall be regulated as any other multiple-unit development. Detached unit developments, condominium subdivisions or site condominiums shall meet the requirements of this ordinance and comply with the design and layout requirements of the City of Grand Haven Subdivision Control Ordinance.

SEC. 40-309. - CONVERSION OF EXISTING STRUCTURES AND DWELLINGS.

- A. ~~Except in conformance with the requirements of this ordinance, e~~Existing structures may shall not be converted to accommodate uses other than those for which the structure was originally constructed, provided that such use conforms with the requirements of this ordinance.
- B. Existing dwellings shall not be modified or converted to accommodate additional occupants beyond the number for which the structure was originally constructed, without explicit approval of the City of Grand Haven as provided herein.
- C. The form and footprint of an existing building shall not be changed or modified, except in conformance with the requirements of this ordinance. Modifications may be made to nonconforming structures and dwellings pursuant to section 40-111.04 hereof.

SEC. 40-310. - COMMUNITY GARDENS

- A. Purpose. The purpose of this section is to support the cultivation of locally grown food, encourage local community involvement, improve public health and well-being, and provide economic opportunity by allowing community gardens in the City of Grand Haven. The provisions of this section are intended to support the local food system, while minimizing impacts that may result from agricultural uses.
- B. Permit Required. The creation of a community garden shall require a zoning permit to ensure compliance with the applicable standards of this Ordinance.
- C. Standards. The following standards shall apply to all community gardens in Grand Haven:
 - 1. Community gardens may be an accessory use or a principal use on any property in the City of Grand Haven.
 - 2. Plant beds shall be set back a minimum of three (3) feet from all property lines and rights-of-way.
 - 3. Lighting, if provided, shall be a minimum amount necessary and have fully cut-off features so that all directly emitted light falls within the property boundary.

4. Farm stands selling plants grown at the property are permitted between 8:00 a.m. and 8:00 p.m. Except for sales of plants produced within the community garden and sold at the farm stand, there shall be no other retail sales.
5. The property shall be maintained in an orderly and neat condition so as to prevent the free flow of storm water, irrigation water, chemicals, dirt, or mud across or onto adjacent lots, properties, public streets, or alleys.
6. Accessory structures, including greenhouses, storage sheds, and shade pavilions may be located in the side or rear yard, subject to Section 40-301, but shall not exceed ten (10) percent of the total lot area.
7. Gardening activities shall be conducted in a manner consistent with the activities and noise levels of the neighborhood in which they are located. The use of any motorized equipment, by gas or electricity, within a residential zoning district shall be permitted only between 8:00 am and 8:00 pm.
8. Compost piles shall only be used for waste generated on site and be located a minimum of five (5) feet from each property boundary and a minimum of twenty (20) feet from a residential structure.
9. If vehicular access to the site is desired, access shall be provided via a driveway constructed to City standards. There are no minimum parking standards, but any parking lot designed for more than four vehicles shall be constructed in accordance with Article VI, Parking.
10. Community gardens shall comply with other applicable standards of this Ordinance, including but not limited to, fences and retaining walls, clear vision corners, and signage requirements.

SEC. 40-311. - RESERVED.

SEC. 40-312. - DWELLINGS.

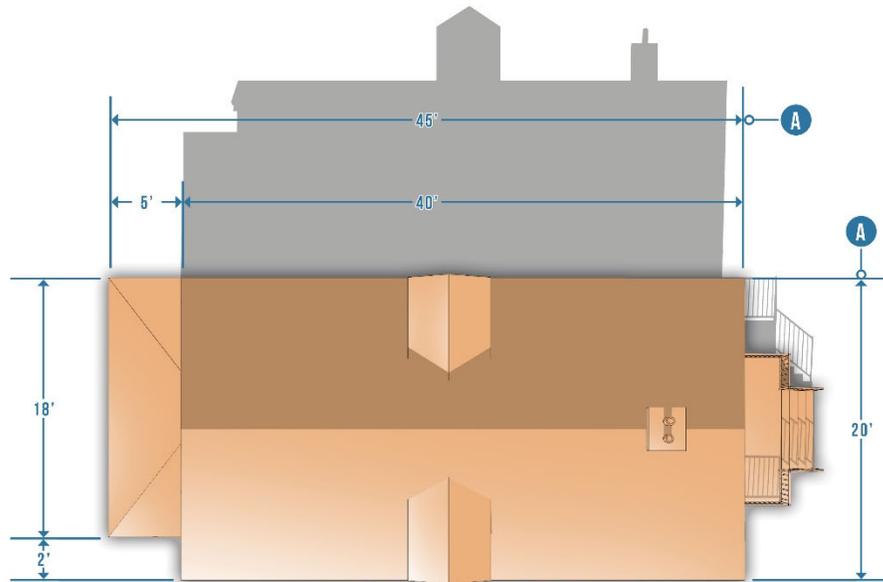
- A. A dwelling located within the basement of a building, structure or dwelling is prohibited.
- B. All dwelling units shall provide a minimum height between the interior floor and ceiling of seven (7) feet or if a manufactured housing unit, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, as amended.

MINIMUM EXTERIOR DIMENSION

FIGURE 3-8

KEY

- Ⓐ Minimum exterior dimension including the sum of all wall segments with essentially the same general orientation



C. In all districts except OT, the minimum exterior dimensions of any single-family dwelling unit shall be ~~twenty-three~~twenty (20~~3~~) feet, measured along one wall face including the sum of all wall segments with essentially the same general orientation (as illustrated at right) between the exterior part of the walls having the greatest length. In the OT district, said minimum exterior dimension of a single-family dwelling shall be twenty (20) feet. Minimum gross living area as required in article IV shall be determined by measuring the area enclosed by the exterior perimeter wall including finished living areas on the main floor and floors other than the main floor, but not including garages, decks, basement, and similar non-habitable space.

D. All dwellings shall be connected to a sewer system and water supply system approved by the city.

E. All additions to dwellings shall meet all the requirements of this ordinance.

F. For two-unit dwellings located in the E, S, OT, OS, and NMU districts, the following standards apply:

1. Scale elevation drawings depicting architectural features shall be provided. A two-unit dwelling shall be designed to look like a one-unit dwelling and shall include architectural details found on the majority of dwellings in the neighborhood, so that the two-unit dwelling is consistent with the aesthetic character of existing buildings.

2. A garage serving a two-unit dwelling shall be recessed or placed to the rear of the dwelling, with side or rear entry.

SEC. 40-313. - ESSENTIAL SERVICES.

Essential services as defined herein may be placed in any zone; provided, that the zoning administrator finds that there will be no adverse effect upon surrounding adjacent property. Significant structures associated with essential services and proposed within a residential district shall be reviewed by the planning commission as to architecture, landscaping, and screening suitable to the neighborhood.

SEC. 40-314. - HOME OCCUPATIONS.

It is the policy of the City of Grand Haven to encourage entrepreneurship and a reasonable degree of activity within residential areas during normal business hours. Such activity contributes to the vitality of the community and increases safety within neighborhoods. However, excessive commercial activity, such as traffic, odors, deliveries and signage, within a neighborhood may undermine its residential character. The intent of this section is to establish reasonable standards to regulate home occupation activities that are compatible with the residential character of a neighborhood.

- A. Minor-home occupation: A minor-home occupation is a home occupation as defined herein, which would normally not be apparent to neighbors living in the vicinity, such as providing piano lessons to one student at a time. A minor home occupation shall be permitted in any residential district, subject to the following conditions:
- B. Minor-home occupations:
 - 1. Must be registered with the zoning administrator. Registration shall be provided on forms developed by the city and may require a fee as determined by the city council. Such registration shall document that the minor home occupation shall be conducted in accordance with the terms of this section.
 - 2. Must be conducted entirely within a residential building or within an accessory structure, and must not be evident in any way from the street or from any neighboring premises.
 - 3. Must not change the character of the building in which it is conducted and must not constitute, create or increase a nuisance.
 - 4. The operator of the home occupation shall make the dwelling unit within which the home occupation is conducted his/her primary residence, where the operator regularly sleeps, eats, entertains and conducts other functions and activities normally associated with home life. Not more than one nonresident may be employed by the home occupation.
 - 5. Must employ only mechanical equipment which is similar in power and type used for household purposes and hobbies.
 - 6. Must not generate noise, vibrations, smoke, dust, odor, heat, or glare which are detectable beyond the property lines. Furthermore, the home business shall not create an electrical interference with the transmission of television, cellular,

wireless service, or radio in the area which exceeds that which is normally produced by a residential dwelling unit in the district.

7. Must provide sufficient solid waste receptacles sufficiently screened and maintain the property free of debris.
8. Must not devote more than twenty-five (25) percent of the principal building and accessory buildings to such home occupation.
9. Must not require parking spaces in excess two (2) spaces, located in the driveway or on the street directly adjacent to the property.
10. Must not generate vehicle trips in excess of ten (10) trips per day.
11. On-site sale of merchandise shall be limited to:
 - a. Items commonly traded or collected or occasionally bought and sold by hobbyists (i.e. antiques, stamps, coins, comics, etc.), but not including automobiles or firearms.
 - b. Crafts and artistic products produced on-site.
12. No more than two (2) customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.
13. Visits by customers, clients, students, or patients to a premises in which a home occupation is located shall be limited to the hours of 7:00 a.m. to 8:00 p.m.
14. All building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.
15. A minor home occupation shall include an individual's ability to operate as a registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133 (the General Rules), the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26421 et seq (the "Act") and the requirements of this chapter. Nothing in this chapter, or in any companion regulatory provision, adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the general rules. Also, since federal law is not affected by that Act or the general rules, nothing in this chapter, or in any companion regulatory provision, adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or owners of the properties on which the medical use of marihuana is occurring under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:
 - a. Compliance with subsection 40-314.B.1—15.

- b. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
- c. A registered primary caregiver must be located outside of a one-thousand-foot radius from any school, or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended MCL 333.7410, to insure community compliance with federal "Drug-Free School Zone" requirements.
- d. Not more than one primary caregiver shall be permitted to service qualifying patients per dwelling unit.
- e. Not more than five (5) qualifying patients shall be assisted with the medical use of marihuana within any given calendar week.
- f. All medical marihuana shall be grown and contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the building official and the City of Grand Haven Department of Public Safety.
- g. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
- h. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 p.m. to 7:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.

C. A major home occupation shall be a home occupation that cannot meet the requirements of this section. Such major home occupation shall be regulated pursuant to section 40-533, home occupation, major, of this ordinance.

SEC. 40-315. - RESERVED.

SEC. 40-316. - KEY STREET SEGMENTS.

Key street segments are located throughout the city and are identified on the zoning map and in the particular zoning districts established in article IV. Key street segments tend to include a mix of land uses, and, due to traffic patterns, are appropriate locations for certain uses within a zoning district. If a property fronts on, and gains access from, a key street segment, certain uses shall be permitted as permitted or special land uses that are not otherwise permitted in other locations within the zoning district boundaries. For the purposes of this ordinance the street

segments are described in the respective zoning district sections of article IV and as illustrated on the City of Grand Haven Zoning Map shall include both sides of the street extending between the rights-of-way listed in article IV.

SEC. 40-317. - LIGHTING.

A. *Intent and purpose:* To create and maintain safe nighttime environments for both pedestrians and drivers on public roadways and right-of-ways, by minimizing brightly lighted surfaces and lighting glare as well as extended areas along sidewalks and streets. To preserve the restful quality of nighttime, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to "sky glow", and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the planning commission and zoning administrator in the review of all site plans submitted for approval under the terms of this zoning ordinance.

B. *General standards:*

1. *Exempted areas and types.* The following types of outdoor lighting shall not be covered by this ordinance:

- a. Residential decorative lighting such as porch lights, low-level lawn lights, and special seasonal light such as Christmas decorations, and residential yard lights whether building mounted or pole-mounted, provided the light intensity or brightness at any property line shall not exceed one foot candle. Light spillover onto public rights-of-way is exempt from this section.
- b. Sign lighting as regulated by article VII hereof.
- c. Lighting associated with detached single-family ~~housing~~ and two-family [housing](#).

2. *Regulated lighting.* The following types of lighting shall be regulated by this ordinance:

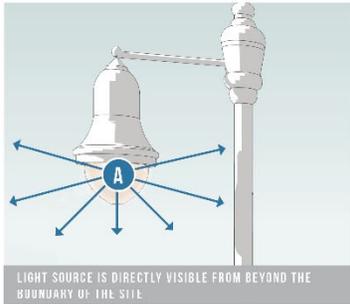
- a. Parking lot lighting and site lighting for commercial, industrial and institutional developments.
- b. Multiple-family developments parking lot lighting and site lighting.
- c. Privately owned roadway lighting.
- d. Building facade lighting.
- e. Other forms of outdoor lighting which, in the judgment of the planning commission, is similar in character, luminosity and/or glare to the foregoing.
- f. All forms of neon lighting.

3. *Standards:* Lighting shall be designed and constructed in such a manner as to:

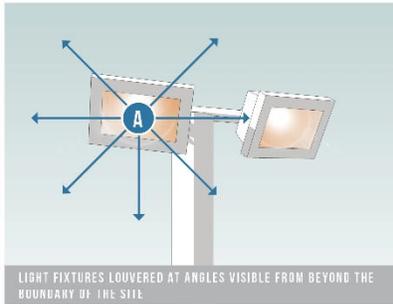
- a. Insure that direct or directly reflected light is confined to the development site and pedestrian pathways.
- b. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
- c. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one foot candle, except that brightness at a street right of way may exceed one foot candle if the City determines that such brightness is necessary for public safety reasons.
- d. Lighting fixtures shall have one hundred (100) percent cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane.
- e. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
- f. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness, or color. Beacon, strobe and search lights are not permitted.
- g. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

UNACCEPTABLE STANDARDS FOR LIGHTING

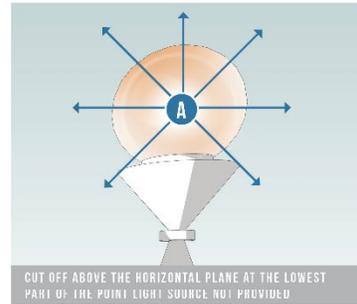
FIGURE 3-9



LIGHT SOURCE IS DIRECTLY VISIBLE FROM BEYOND THE BOUNDARY OF THE SITE



LIGHT FIXTURES LOUVERED AT ANGLES VISIBLE FROM BEYOND THE BOUNDARY OF THE SITE

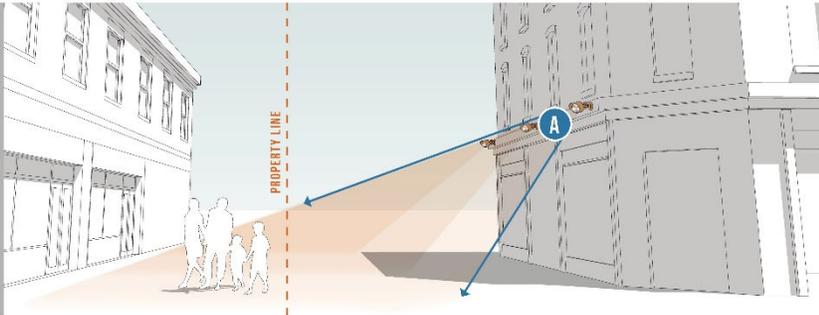


CUT OFF ABOVE THE HORIZONTAL PLANE AT THE LOWEST PART OF THE POINT LIGHT SOURCE NOT PROVIDED

KEY

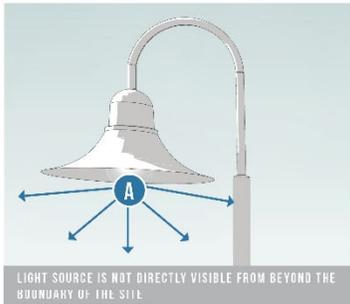
A Direction of light

THE LIGHT FROM ANY ILLUMINATED SOURCE SHALL BE DESIGNED SO THAT THE LIGHT INTENSITY OR BRIGHTNESS AT ANY PROPERTY LINE SHALL NOT EXCEED ONE FOOT CANDLE

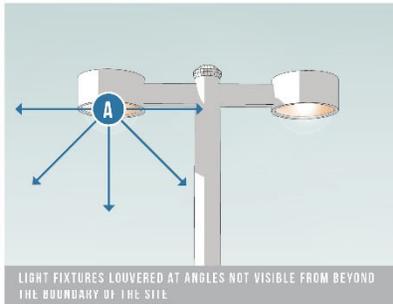


ACCEPTABLE STANDARDS FOR LIGHTING

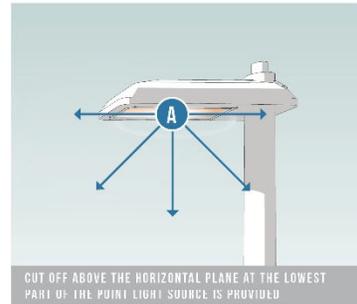
FIGURE 3-10



LIGHT SOURCE IS NOT DIRECTLY VISIBLE FROM BEYOND THE BOUNDARY OF THE SITE



LIGHT FIXTURES LOUVERED AT ANGLES NOT VISIBLE FROM BEYOND THE BOUNDARY OF THE SITE

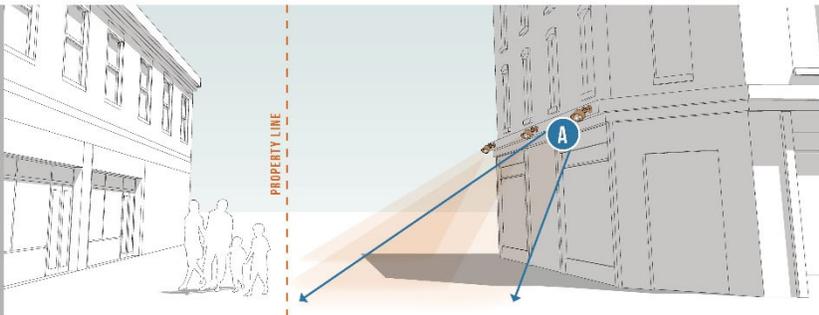


CUT OFF ABOVE THE HORIZONTAL PLANE AT THE LOWEST PART OF THE POINT LIGHT SOURCE IS PROVIDED

KEY

A Direction of light

THE LIGHT FROM ANY ILLUMINATED SOURCE SHALL BE DESIGNED SO THAT THE LIGHT INTENSITY OR BRIGHTNESS AT ANY PROPERTY LINE SHALL NOT EXCEED ONE FOOT CANDLE



SEC. 40-318. - OUTDOOR STORAGE AND PARKING OF RECREATION VEHICLES AND OTHER MATERIALS.

Sec. 40-318.01. - Residential districts.

- A. Within the SFRLDR, MDR, DR, NS, S, E, OT and NMU districts, the outdoor storage or parking of RVs, boats, and trailers of any kind shall be permitted only in accordance with this section. The storage or parking of trucks of more than one and one-half (1½) tons capacity, truck trailers, recreational vehicles and boats shall be prohibited in any front yard in all districts, except as accessory to a use permitted by right or by special land use permit.
- B. The outdoor storage of recreational vehicles, boats and trailers shall be regarded as a permitted accessory use in the SFRLDR, MDR, DR, NS, S, E, OT and NMU districts, if such storage conforms to the provisions of this section.
- C. Such outdoor storage may be permitted within the rear yard or in one side yard, provided all stored material is placed no closer than three (3) feet from a side lot line or five (5) feet from a rear lot line and provided that such storage does not prevent clear access between the front and rear yards of the parcel for a person on foot.
- D. Such storage shall not be permitted in any front yard, except that recreational vehicles, boats, and trailers ~~and recreational vehicles~~ may be stored in a driveway within a front yard for a period of not more than five (5) consecutive days in any thirty-day period, provided that such recreational vehicles, boats, and trailers are not within five (5) feet of the front lot line and do not obstruct a sidewalk or otherwise jeopardize the public health, safety, or welfare.
- E. The open storage of disassembled or component parts for any vehicle of any type shall be deemed a nuisance in accord with the City of Grand Haven Nuisance Ordinance and shall be prohibited at all times.
- F. Any recreational vehicle or boat stored out of doors shall be the property of the resident.
- ~~G. No recreational vehicle, camper or boat and trailer shall be parked or stored on any roadway or road right-of-way.~~
- H.G. Temporary dwellings. Parking or storage of ~~temporary dwellings,~~ recreational vehicles, campers, or boats and trailers, on the street ~~or front yard~~ for more than forty-eight (48) hours at a time is prohibited. Such storage may not occur more than three (3) times per twelve-month period, and shall be separated by at least seven (7) days between each occurrence. Longer periods shall require a permit from the zoning administrator. No person shall use or permit the use of any temporary dwelling, camper, recreational vehicle or trailer as a principal or seasonal or short-term dwelling on any site, lot, field, parcel or tract of land, except as part of a campground licensed by the Michigan Department of Public Health and/or County Department of Public Health.

Sec. 40-318.02. - Commercial and industrial districts.

In the TI, C, I districts, yards for storage of heavy machinery, supplies and materials generally used by road builders, earth movers, and construction contractors, or unused motor vehicles, trailers or boats, or parts thereof, and raw materials or scraps which may or may not be wholly owned by the property owner, shall be only located in areas approved by the planning commission. Such storage yards shall be entirely enclosed with a solid fence evergreen plantings or other year-round screening not less than six (6) feet high. Fencing or walls shall not be more than eight (8) feet high and shall be constructed and maintained in such suitable manner in accordance with this zoning ordinance. In approving or disapproving such a fence to screen outdoor storage, the following standards shall be applied:

- A. Fences and walls shall be constructed of durable materials such as brick, cement block, chain link, or structural resin intended to remain in good condition in the western Michigan shoreline climate. Sheet metal, chainlink with woven screening, wood planks and other similar materials that may be subject to rusting, weathering or deflection under severe weather conditions shall not be permitted.
- B. All fencing materials shall be properly maintained and located in accord with the terms of this ordinance and completely on the property of the owner. The planning commission may require that sufficient area be set aside on the outside of the fencing to permit maintenance of the fencing from the owner's property.

SEC. 40-319. - PARCEL DIVISIONS AND COMBINATIONS.

- A. *New parcels.* New parcels created and existing parcels combined shall conform to this ordinance and the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended. No parcel shall be split, divided, combined with another parcel or created which does not meet the dimensional, land use and site design and layout requirements of this ordinance, except as may be permitted specifically elsewhere in this ordinance. No parcel may be split, divided, combined with another parcel or created such in such a way as to create a nonconforming condition on either the proposed new parcel or the remainder thereof, unless the overall degree of nonconformance between the proposed parcel or remainder thereof is reduced.
- B. *Subsequent splits.* Lots under a single ownership that have been combined may be split back to the originally platted dimensions, and to a dimension that is significantly similar to the established pattern of development in the surrounding neighborhood, as determined by the zoning administrator. Nothing in this section shall be construed to permit the division of a lot to create a setback dimension less than the minimum required in the applicable zoning district.
- C. *Divided lots.* Unless expressly approved by the planning commission as a part of a planned development, no parcel of land shall be divided by a public or private right-of-way or road easement such that any portion of the parcel isolated from the remainder of

the parcel by such right-of-way or easement includes less than the minimum area and frontage for the zoning district in which it is located.

1. Each portion of such divided lot exclusive of the right-of-way or easement, shall either:
 - a. Comply with the district requirements for minimum net lot area, road frontage, lot width, width to depth ratio and setback, or
 - b. Be considered permanently combined with such other portions of the lot such that the combined portions, exclusive of the area within the right-of-way, are considered one zoning lot to comply with the district requirements for minimum net lot area, road frontage, lot width, width to depth ratio and setback.
2. Not more than one principal building may be erected on a divided lot and the standards of section 40-301 pertaining to accessory buildings shall apply to divided lots, providing that all required setback standards of this zoning ordinance shall be met.
3. No portion of a divided lot, as defined herein, may be sold or otherwise conveyed if the divided lot, either prior to or after the conveyance, shall fail to meet the requirements of this zoning ordinance pertaining to minimum net lot area, road frontage, lot width, width to depth ratio and setback.
4. One or more platted lots, any of which do not meet the net lot area and road frontage requirements of this zoning ordinance and which are separated from one another by a public or private road right-of-way or road easement and which have common ownership and which have been used historically as one site, shall be considered to be one zoning lot.
5. One or more platted lots, any of which do not meet the net lot area and road frontage requirements of this zoning ordinance and which are separated from one another by a public or private road right-of-way or road easement and which have not been used historically as one site, may become one zoning lot if a copy of a recorded deed incorporating the owner's intent to permanently combine such parcels is provided to the city.
6. Once a divided lot, as defined herein, is designated and used as such, it shall not be used or developed except in conformance with the requirements of this zoning ordinance.

D. *Combinations.* Nothing in this section shall be interpreted to prevent the permanent combination of two (2) or more contiguous parcels to create a new parcel which complies, or more fully complies, with the requirements of this ordinance.

SEC. 40-320. - PERFORMANCE STANDARDS.

- A. It shall be unlawful to conduct or permit any activity or operation or use of land, building, or equipment that produces irritants to the sensory perceptions greater than the

measures herein established which are hereby determined to be the maximum permissible hazards to humans or human activities.

1. *Sound.* The emission of measurable noise in decibels (dB) from the premises shall not exceed the sound levels outlined in Table 320, when measured at any property line. These regulations do not apply to construction activities, maintenance activities, noises of safety signals, warning devices, emergency pressure relief values or special community events approved by city council.

Table 320			
Source of Sound	Receiving Property		
	Residential	Commercial	Industrial
Residential	50 dB	57 dB	60 dB
Commercial	55 dB	60 dB	65 dB
Industrial	55 dB	65 dB	70 dB

2. *Vibration.* All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of three thousandths (0.003) of one inch measured at any lot line of its source. Vibration from sound or noise at any lot line shall not be so intrusive as to interfere with normal daily activities in adjoining land uses.
3. *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any lot lines, when diluted in the ratio of one volume of odorous air to four (4) or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines, is prohibited.
4. *Toxic gases.* The escape or emission of any gas, which is injurious or destructive or explosive, shall be unlawful and shall be summarily abated, as directed.
5. *Glare and heat.* Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.
6. *Light.* All lighting shall be arranged to reflect light away from adjacent parcels and must follow the standards outlined section 40-317.
7. *Electromagnetic radiation.* The rules and regulations of the Federal Communications Commission, as amended with respect to the propagation and

dissemination of electromagnetic radiation must be followed and are hereby made a part of this ordinance.

8. *Drifted and blown material.* The drifting or airborne transmission beyond the lot line of soot, particles, or debris from any stockpile shall be unlawful and shall be summarily abated, as directed.
9. *Smoke, dust, dirt, and fly ash.* It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than three (3) minutes in any sixty (60) minutes which is more than forty (40) percent opaque.

SEC. 40-321. - PRIVATE ~~ROADS~~STREETS.

- A. All streets within the City of Grand Haven shall be public streets built to public street standards and shall be located within public street rights-of-way, except the planning commission may recommend to the city council and the city council may permit private streets in private easements, when any of the following conditions are found to exist:
 1. Not more than four (4) non-platted divisions of land will be served by the street.
 2. The street will terminate within a site of land divisions, with only one means of ingress and egress.
 3. There is no opportunity or potential to plat the land under the city's subdivision platting standards, either on the land itself or, by extension of existing subdivision plats on adjoining lands into the land itself.
 4. A private street would preserve a natural site amenity that would otherwise be destroyed or diminished by development of a street built to public road standards.
 5. The private street is proposed as part of a planned development pursuant to section 40-421 hereof.
- B. When it is found that at least one of the above conditions exists, a private street in a private easement may be developed on the land, in place of a public street in a public right-of-way, provided the following standards are met:
 1. The private street shall be at least twenty-four (24) feet in width and shall consist of a hard-surfaced material that meets city standards for a public street.
 2. An easement shall be provided in which the private street shall be located and shall be at least sixty-six (66) feet in width if four (4) or more lots or parcels are to gain access from it, or forty (40) feet in width, if fewer than four (4) parcels will gain access from it. The centerline of the private street shall be the same as the centerline of the easement.
 3. A private street that does not connect with the public street network at both ends shall be provided with a cul-de-sac type of turn-around at its terminus. The cul-de-sac street shall be at least forty-eight (48) feet in diameter within an easement

that shall be at least sixty-four (64) feet in diameter. The Grand Haven Fire Department Marshal or other agency or department having jurisdiction may modify the requirement of this section to ensure that all properties gaining access are adequately accessible to emergency services.

4. The city engineer shall approve all drainage associated with a private street and a private street easement.
 5. All land within a private street easement shall be excluded from all minimum lot area and lot width requirements applicable to parcels fronting the private easement.
- C. In a PD development, the planning commission may approve a modification of the requirement of this section.

SEC. 40-322. - SCREENING OF MECHANICAL EQUIPMENT.

- A. *Rooftop mechanical equipment.* In all districts except the I district, all rooftop mechanical equipment shall be screened from view through one or more of the following methods: a concealing roofline, a parapet, a screening wall, or grillwork constructed of the same building material as the building directly surrounding the equipment, or an alternative screening mechanism satisfactory to the planning commission. All mechanical equipment shall be sufficiently setback from the facade edge to be concealed from street-level view or where roofs are visible from abutting and adjacent residential areas a roof will be required to cover mechanical units from view. Any screening material shall be no taller than necessary to achieve the required screening.
- B. *Other mechanical equipment.* In all districts except I, ground mounted mechanical equipment intended or used for heating, air conditioning, make-up air, dust collection, plumbing ventilation, exhaust, telecommunication, or other purposes associated with the occupancy of the building shall be screened from view with fencing or landscaping to the greatest extent possible. In the I district, such screening shall be provided only in yards which abut residential districts, and only to the extent feasible, as determined by the zoning administrator.

SEC. 40-323. - SITE PREPARATION AND EXCAVATION.

Land filling, mining and other land-form contour changes to create a buildable area or to remove or stockpile topsoil, sand or earth shall not be undertaken, except in conformance with the requirements of this ordinance, applicable county, state and federal requirements and the Grand Haven City Code of Ordinances, as amended. No person shall undertake any activity such as grading, clearing, cutting and filling, excavating, or tree removal in preparation for a use or structure which requires site plan review and approval until the proposed use or structure is authorized by a land use permit.

SEC. 40-324. - TEMPORARY USES AND STRUCTURES.

- A. *Temporary uses registry.* The zoning administrator shall maintain a registry of authorized temporary uses as provided herein.

- B. *Temporary sales.* Sidewalk, food trucks, pop-up stores, tent, or seasonal sales of goods are permitted in accordance with the following restrictions:
1. *Permitted districts:* Such temporary sales shall be permitted in the OT, NMU, OS, CB, C, B, WF, WF-2, TI and I districts.
 2. *Registration:* Any person, organization or business desiring to utilize property for a use authorized by this section shall first register with the zoning administrator, on a form to be provided, and shall pay a fee for registration in an amount as established by the city council. The registration form shall be accompanied by a sketch plan identifying:
 - a. The shape, location and dimensions of the lot, including the shape, size and location of all existing buildings or other structures on the lot, off-street parking layout, and the location of any designated fire lanes.
 - b. The shape, size and location of all buildings or structures to be erected or moved onto the lot, including tents, tables, stands, ~~or~~ display racks, or vehicles from which the temporary sales will be conducted.
 3. *Time limitations:*
 - a. Registration for a temporary tent or sidewalk sale related to a permitted principal use otherwise occurring on the lot shall be effective for no longer than seven (7) days. There shall be a minimum seven-day gap between subsequent sales. No more than three (3) such temporary uses may occur on a particular lot within a single calendar year. During times of emergency pursuant to Section 40-111.01,E, temporary tent or sidewalk sales shall be permitted on the lot without time restriction, following the approval of Public Safety, Public Works, and other appropriate City departments.
 - b. Registration for a seasonal sale of goods, not related to a permitted principal use otherwise occurring on the lot (e.g., t-shirts, Christmas trees, sunglasses or fireworks) shall be effective for no longer than thirty (30) days. No more than one such seasonal sale shall be permitted on a lot within a single calendar year or at a time.
 - b.c. Pop up shops may be permitted for no longer than thirty (30) days provided that the activity conducted would be permissible in the underlying zoning district and other applicable regulations of this Ordinance would be satisfied.
 4. *Regulations:*
 - a. A temporary tent or sidewalk sale permitted in accordance with this section shall comply with all applicable requirements for the zoning district in which it is to be located including, without limitation:
 - 1) Section 40-307, Clear vision corners.

2) Section 40-317, Lighting.

3) Article VI, Parking.

4) Article VII, Signs.

b. A temporary structure used in conjunction with such use may be located in a front yard, but no closer than one-half ($\frac{1}{2}$) the distance between the right-of-way and the principal building.

c. When a seasonal sale of goods is to be conducted on an otherwise vacant or unused lot, the use shall comply with all applicable zoning regulations for the district in which it is to be located, including all requirements pertaining to lot size, height, setback, open space ratio, maximum percentage of covered lot area and off-street parking.

5. The city council may issue permits for the temporary use and occupancy of property for uses not otherwise provided for in this ordinance (carnivals, special events, flea markets, environmental testing devices) and which do not require the erection of any structures requiring foundations or connection to public water or sewer. For the purpose of this section, a temporary activity shall not extend for more than six (6) weeks in any year. There shall be no minimum duration for a temporary activity. The City Council may issue permits for a temporary activity for up to six (6) months during times of emergency pursuant to Section 40-111.01.E to allow businesses flexibility to operate.

6. Private garage sales, yard sales, or estate sales. Sales of personal items from a private residence or church, such as garage or yard sales, or civil organization events such as car washes, shall not require a temporary activity permit if such activity does not extend for more than three (3) days in any ninety-day period or occur more than once in any ninety-day period.

C. *Temporary dwellings* (See subsection 40-318.01.H).

D. *Temporary structures*:

1. A temporary structure shall not be occupied as a dwelling.

2. A temporary structure shall be located only in the side or rear yard of a property and shall meet the setback requirements of its respective district. The zoning administrator must approve the site for the temporary structure prior to its placement.

3. Fabric or plastic covered framework or metal roofed temporary structures shall be prohibited in all districts.

4. Construction trailers, job-site offices, tool cribs and similar temporary structures associated with building or public facility construction shall be properly anchored and may be located on any portion of a construction site, provided clear vision corners are maintained at all intersections and safe pedestrian passage is provided.

SEC. 40-325. - UNCLASSIFIED USES.

The planning commission may find that a land use, while not specifically classified in this ordinance as a permitted or special land use, may be sufficiently similar to uses listed as permitted by right or as special uses. In that event, such unclassified uses may be reviewed and treated as similar classified uses within the district.

In reaching such a finding, the zoning administrator shall first evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with the intent of the district and other permitted and special land uses. If the zoning administrator determines that such use is similar to the uses permitted by special use permit, a report outlining the determination shall be provided to the planning commission with a recommendation to consider such use as sufficiently similar to permitted or special land uses within the district and the approval standards that should be used to evaluate the proposed use.

Where a proposed use of land or use of building is not contemplated or specified by this ordinance or where the zoning administrator has a question as to the appropriateness of a use, which, although permitted, involves other features, which were not contemplated or specified by this ordinance, the zoning administrator shall request a determination by the planning commission. If the planning commission determines that such use is not contemplated or specified by this ordinance, or that it involves features, which were not contemplated or specified herein, such use shall be prohibited. Nothing in this section 40-325 shall be construed to prohibit a future amendment of this ordinance pursuant to section 40-121 amendments to provide standards to regulate a land use that may be currently excluded.

SEC. 40-326. - UTILITIES REQUIRED.

A structure intended or used for human occupancy shall be connected to a public sewer and water supply, and other sustenance utilities, or to such private facilities in compliance with the City Code, as amended, and approved by the Ottawa County Health Department.

SEC. 40-327. - FENCES AND RETAINING WALLS.

Fences, walls, and decorative fences shall require a land use permit issued by the zoning administrator and shall comply with the following regulations and requirements:

A. Retaining walls.

1. *Intent.* The intent of these regulations is to maintain, as much as possible, the natural contours and vegetation of the slopes and elevation changes throughout the City of Grand Haven while recognizing that some improvements may be acceptable to avoid erosion and manage runoff.
2. *Application procedure.*
 - a. Unless otherwise specified in this section, retaining walls and changes in grade shall require a land use permit issued by the zoning administrator.

- b. Retaining Walls that exceed forty-eight (48) inches in height or that project above a line drawn at a forty-five-degree angle from the property line, where the horizontal plane is the existing elevation at said property line, towards the proposed retaining wall(s) shall require a special land use permit in accordance with section 40-116 and a site plan review in accordance with section 40-115, and, at a minimum, include the following:
 - i. A site plan, prepared by a design professional, which shall ensure stability against overturning, sliding, lateral soil loads, water uplift, and acceptable soil resistance at the base of the retaining wall. At the discretion of the planning commission, a sealed plan prepared by a structural engineer may be required.
 - ii. Setback dimensions from all property lines and existing structures to all proposed retaining wall(s) or the point of beginning of the grade change(s), whichever is closest.
 - iii. Existing and proposed contour elevation lines in one-foot increments.
 - iv. A stormwater runoff and management plan which clearly displays the stormwater discharge and management proposed to avoid any additional runoff and/or erosion onto adjoining properties or the public way. All systems shall include drainage pipes behind the wall to remove stormwater from behind wall and discharge to a point away from the wall.
 - v. A landscaping plan, which at a minimum, shall include all proposed ground cover, plants, shrubs, trees, and all fences including location and setbacks from property lines.
 - vi. For changes in grade and retaining walls that are within the land areas regulated by federal or state laws, all federal and state approvals shall be obtained prior to all planning commission reviews.
- c. All new retaining walls located in the Sensitive Areas Overlay district shall follow the procedures of section 40-422.

3. *Location.*

- a. Retaining walls shall be located so as to not obstruct the clear vision corners as regulated in section 40-307.
- b. No retaining wall shall be placed closer than one foot to a public parking area, public road, or public sidewalk.

4. *Height.*

- a. The height of a retaining wall shall be measured straight up vertically from the existing grade to the upper most point at the top of the wall unless the

retaining wall assembly includes footings for stability and building code compliance at which time the wall height shall be measured from the top of the footing to the upper most point at the top of the wall.

5. *Design and type.*

- a. The placement, location and design of a retaining wall shall not modify or alter existing drainage patterns.
- b. Excavation needed for the placement, location and design of a retaining wall shall not undermine the grade of the adjacent property.

6. *Maintenance/replacement.*

- a. Retaining walls shall be maintained to retain their original height and configuration. Elements of a retaining wall that are missing, damaged, destroyed or deteriorated shall be replaced and repaired to maintain conformity with the original retaining wall height and configuration.
- b. Maintenance or replacement of an existing retaining wall shall require a land use permit from the zoning administrator.

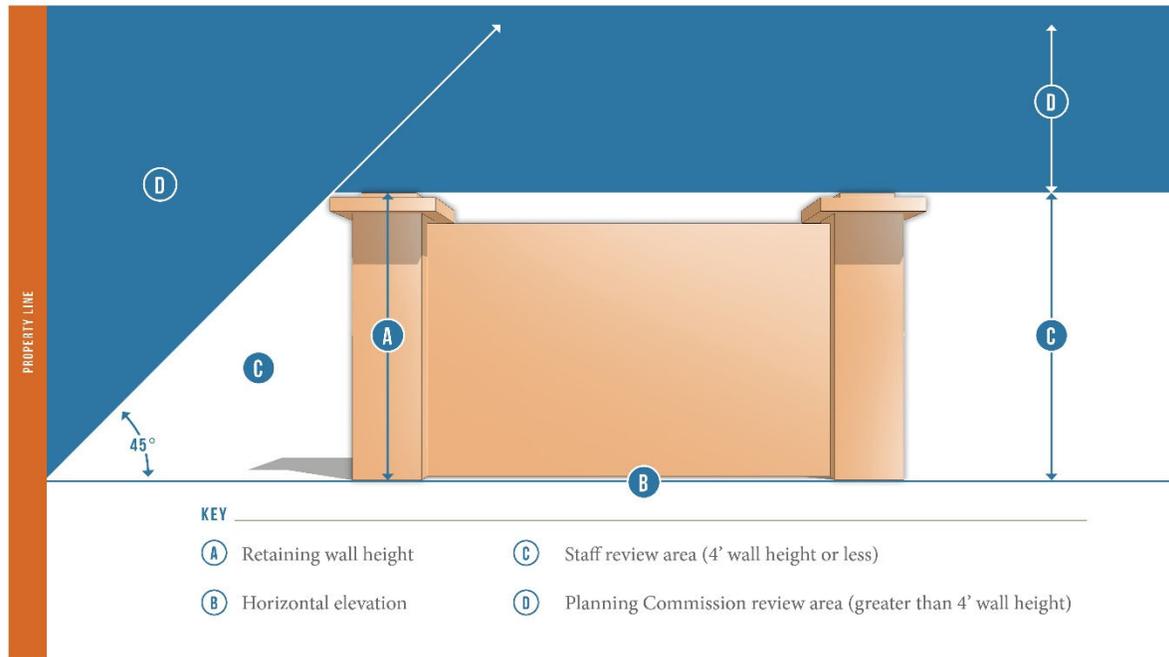
7. *Additional conditions.*

- a. All new retaining walls and repair or replacement of existing retaining walls over forty-eight (48) inches in height shall require a building permit under the Michigan Building Code or Michigan Residential Code respectively prior to excavation. All retaining walls, regardless of height, shall comply with the requirements of the building codes and be constructed in accordance with the product manufacturer's specifications.
- b. The zoning administrator reserves the right to request any of the requirements in section 40-327.A.2.b. above to complete an administrative review.
- c. While every effort has been made to effectively address each retaining wall request it is impossible to predict each configuration possible. At the discretion of the zoning administrator, such non-typical retaining walls can be forwarded on to the planning commission for site plan review in accordance with section 40-115 of the zoning ordinance.
- d. Retaining walls that result in a decrease or a lower elevation in grade from the existing elevation of the land area are permitted as long as such change in grade and retaining walls are within the setback footprint required for the principal structure. All such decreases and lower elevation changes in grade and retaining walls outside the required setback footprint of the principal structure shall only be permitted after an administrative review and approval.
- e. The planning commission, at its discretion and as a condition of special land use approval, may require a guardrail for protection from fall from the

top of retaining walls. Such guardrail system(s) shall be constructed with materials and designs which reflect the character of the immediate neighborhood, are constructed of approved exterior use materials, and are constructed according to manufacturer's specifications and the Michigan Building Code.

RETAINING WALL REVIEW

FIGURE 3-11



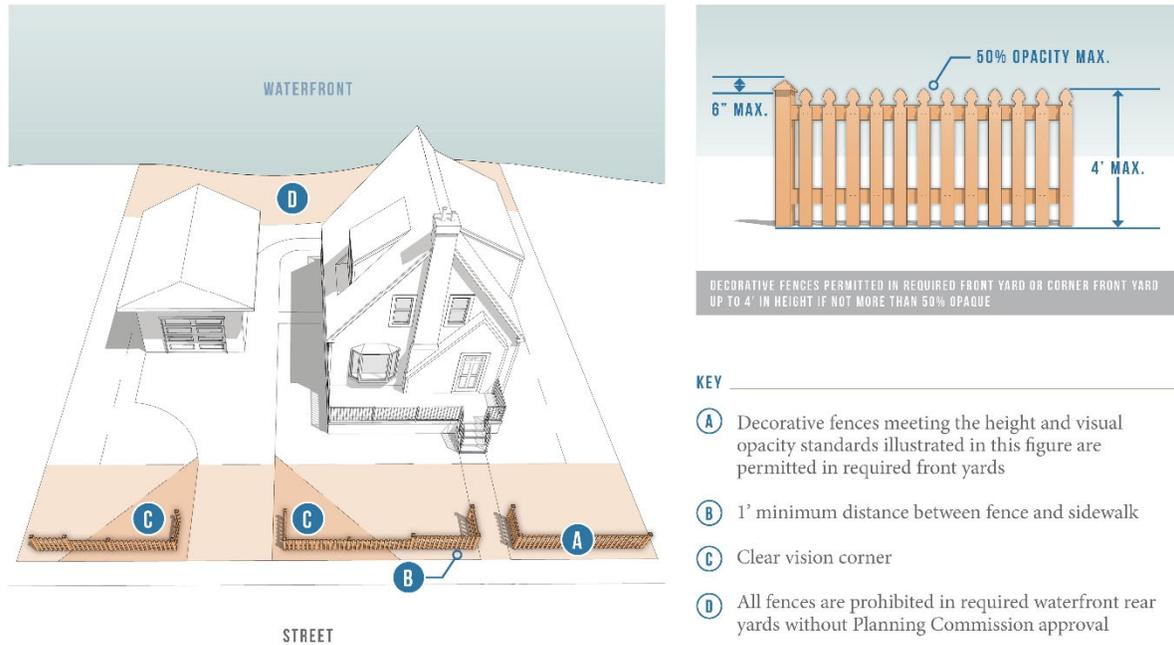
B. Fences.

1. Location.

- a. Front yard. Fences in a front yard or corner front yard shall be limited to decorative fences, as defined herein, in all districts except the TI and I districts.
- b. On a waterfront lot no fence shall be located in the rear yard except that in a residential district, a fence may be approved in the rear yard by the planning commission.
- c. Fences shall be located so as to not obstruct the clear vision corners as regulated in section 40-307.
- d. No fence shall be placed closer than one foot to a public sidewalk.

FENCE LOCATION

FIGURE 3-12



2. Height and opacity.

- a. Total fence height shall be measured from the grade to the top of the fence. Posts may extend a maximum of six (6) inches above the fence.
- b. In all districts, except I and TI, and as further regulated elsewhere in this ordinance, fences and walls in any side or rear yard shall not exceed six (6) feet in height.
- c. Fences in a required front yard or corner front yard shall not exceed four (4) feet in height, except where otherwise permitted in this section, and shall not obstruct vision to an extent greater than fifty (50) percent of their total area.
- d. "Living" fences, such as hedges, in required front yards need not meet the opacity standards of subsections 40-327.B.2 and B.3, but shall not exceed three (3) feet in height and shall comply with the clear vision corner requirements of section 40-307.
- e. The planning commission may approve a greater fence height in the TI and I districts if the increased height will better screen a use from the roadway or adjacent residential uses.
- f. Fences which enclose public or institutional parks, play-grounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight (8) feet in height measured from the surface of the

ground, and shall not obstruct vision to an extent greater than thirty-five (35) percent of their total area.

- g. Fences may be placed on retaining walls, berms or similar features, if the combined height of the fence, and the retaining wall, berm or similar feature does not exceed the maximum permitted height set forth in this section. Provided, however, a fence and retaining wall with a combined height in excess of the standards of this section, may be permitted when the zoning administrator determines that the additional combined height is necessary for the stabilization of a naturally-occurring bank or dune and/or the fence on the retaining wall is necessary for appropriate screening between uses or for safety of persons or property.

3. *Design and type.*

- a. Unless otherwise specified in this section, all residential fences shall be designed and constructed of materials commonly used in conventional fence construction. Acceptable materials include wood product, composite wood, rigid vinyl, wrought iron, or chain link. The use of scrap materials, doors, shutters, pallets, paneling, or other materials not ordinarily used as fencing is prohibited.
- b. All fences shall be constructed with the finished side exposed to neighboring properties, the support posts placed on the inside, and in a manner which serves to enhance the aesthetic appearance of the neighborhood or surrounding area.
- c. Decorative fences shall be constructed, by way of illustration, in a style similar to split rail, picket, or wrought iron fences. Decorative fences shall be designed to incorporate no more than fifty (50) percent opaque surface area.
- d. Except in the I Industrial district, and where required by local, state or federal law enforcement authorities, no fence shall contain electric current, charge of electricity, broken glass caps or chain link type fences with sharp wire edges exposed.

- 4. *Maintenance.* Fences shall be maintained to retain their original appearance, shape and configuration. Elements of a fence that are missing, damaged, destroyed or deteriorated shall be replaced and repaired to maintain conformity with the original fence appearance and design.

(Ord. No. 15-02, § 2, 1-5-15; Ord. No. 19-12, § 1, 8-19-19)

SEC. 40-328. - ONE-FAMILY CLUSTER DEVELOPMENT.

The intent of this section is to permit the development of one-family residential patterns which, through design innovation, will introduce flexibility so as to provide for the sound physical handling of sites in situations where the normal subdivision approach would otherwise be

unreasonably restrictive. To accomplish this, the following modifications to the one-family residential standards may be permitted subject to the conditions herein imposed:

- A. In the residential districts, one-family cluster development may be permitted. In approving areas for one-family cluster development under this section, the planning commission shall find at least one of the following characteristics exists on the land:
 1. Residentially zoned land lying within the SA Overlay district.
 2. An area generally parallel to, and generally not to exceed three hundred sixty (360) feet in depth, on those unsubdivided parcels of land having frontage on a major street of at least one hundred twenty (120) feet of right-of-way width and being so located as to provide transition between nonresidential or major streets and one-family development.
 3. An unsubdivided area which the planning commission finds to be of such unusual shape, or which is found to contain unsuitable or generally unbuildable soil conditions, or which has unusually severe topographic conditions, or which is characterized by some other unusual physical or development factor which would make sound physical development under the normal subdivision approach impractical.
 4. An unsubdivided area which the planning commission finds to be characterized by major stands of trees, streams, or other watercourses which, as significant natural assets, ought to be preserved, such conditions making sound development of the site, under normal subdivision approaches undesirable.
 5. The natural land forms are so arranged that the change of elevation within the site includes slopes in excess of fifteen (15) percent between these elevations. These elevation changes and slopes shall appear as the typical feature of the site rather than exceptional or infrequent features of the site.
 6. The achieving of road grades of less than six (6) percent is impossible unless the sites are mass graded. The providing of one-family clusters will, in the opinion of the planning commission, allow a greater preservation of the natural setting.
- B. The area in open space (including subdivision recreation areas and water) accomplished through the use of one-family clusters shall represent at least fifteen (15) percent of the gross acreage of a one-family cluster development. Open space areas shall be kept as usable open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means. Open space areas may be used in computing density where preserved as open space.
- C. The overall permitted density within those parcels which qualify for cluster development shall not exceed the following (including all residential streets):
 1. DR and NS, 3.5 units per acre overall.
 2. ~~SFRLDR~~, 4.3 units per acre overall.
 3. MDR, 6.3 units per acre overall.

4. MFR, 30 units per acre overall.
- D. Under this section, two-unit dwellings in clusters, or detached one-family homes in clusters, shall be permitted subject to the following conditions:
1. Two-unit dwellings within a cluster shall be permitted when such dwellings are attached either through a common party wall or garage wall, which wall does not have over fifty (50) percent of an individual wall or more than twenty-five (25) percent of the total exterior walls of the living area of a one-family home in common with the wall or walls of the living area of an adjoining home, or by means of an architectural detail which does not form interior room space, or through a common party wall in only the garage portion of adjacent structures.
 2. Detached one-family homes within clusters shall be permitted, provided such homes are spaced not less than six (6) feet apart when opposing dwelling unit walls contain no openings, and not less than ten (10) feet apart when opposing dwelling unit walls contain openings. The distance between opposing garage walls within a cluster shall meet local fire codes, except that in no case shall such walls be less than six (6) feet apart.
- E. The maximum number of homes in a cluster shall be subject to review and approval by the planning commission.
- F. No structure shall be located closer to a street right-of-way or service drive, than twenty-five (25) feet.
- G. Each cluster of one-family dwellings shall be separated from any other cluster of one-family dwellings by a landscaped common open space and the least dimension between buildings shall not be less than twenty-five (25) feet, unless the planning commission finds that the site includes alternative topographical or other features to achieve an effective separation between clusters. The extent of the common open space between one-family clusters shall be subject to review and approval by the planning commission and shall be based on natural environmental preservation considerations, slopes, streams or other physical features of the land which would provide separation.
- H. In reviewing the plans and approving the application of this section to a particular site, the planning commission shall require the following:
1. All clusters that abut major streets shall have a rear yard or side yard relationship to such streets.
 2. A landscaped berm, at least five (5) feet high, shall be provided along the entire property line abutting the major thoroughfares. Berms and landscaping shall comply with article VIII, landscaping. The planning commission may permit an optional landscape treatment in lieu of a landscaped berm when a landscaped berm is not practical due to site conditions.
 3. Street ingress and egress to the major thoroughfares shall be kept to a minimum.
 4. Any area to be dedicated for park recreation or open space purposes as a result of the application of this section shall be subject to review and approval of the

planning commission for minimum size, shape, location, access, the character of any improvements and assurance of the permanence of the open space and its continued maintenance.

- I. A detailed site plan shall be submitted to the planning commission for their review and consideration. Site plan review shall comply with section 40-115. In addition to the requirements set forth in section 40-115 for detailed site plans, proposed building elevations and typical floor plans shall be submitted.
- J. The planning commission shall evaluate proposals to determine whether the proposed site plan meets the site plan criteria of section 40-115.06 and the following:
 1. Protection and preservation of beach areas contiguous to a lake or stream, wetland, floodplain; existing public utility easements; existing public rights-of-way; waterfront setback areas; slopes over twenty-five (25) percent; and buffer areas around such features from clearing, grading, filling, and construction.
 2. Maintenance or creation of a significant upland buffer of natural native species vegetation adjacent to wetlands and surface waters.
 3. Preservation of scenic views and vistas unblocked and uninterrupted, particularly as seen from adjacent roads and surface water.
 4. Protection of wildlife habitat areas of species listed as endangered, threatened or of special local concern.
 5. Protection and preservation of sites of historic, archaeological, or cultural value
 6. Provision of reasonable and contiguous open space areas that are attractive and useful for future residents and the larger community.
 7. Documentation that a homeowners association made up of parcel owners in the development, or a recognized non-profit land conservancy shall own or control the open space. The owner(s) of the open space shall be required to maintain the open space. In the alternative, the City of Grand Haven may, but shall in no way be required to, accept title to the open space as an addition to the city's park system.

SEC. 40-329. - VOTING PLACE.

The provisions of this ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

SEC. 40-330. - COMMON OPEN SPACE.

The following shall apply to common open space areas:

- A. Common open space shall be a minimum of fifty (50) feet in all horizontal dimensions.
- B. Required setbacks shall not be considered as common open space.
- C. The area of road rights-of-way or access easements shall not be considered common open space.

- D. Stormwater detention ponds designed to appear and function similar to natural wetlands or ponds may be considered as open space, provided at least fifty (50) percent of the required common open space areas is in the form of usable park area.

SEC. 40-331. - PROHIBITION OF RECREATIONAL MARIJUANA ESTABLISHMENTS.

- D. Marijuana establishments, as authorized by and defined in the Michigan Regulation and Taxation of Marijuana Act (the "Act"), are prohibited in all zoning districts, and shall not be permitted as home occupations under section 40-314 of this chapter.
- E. No use that constitutes or purports to be a marijuana grower, marijuana safety compliance facility, marijuana processor, marijuana microbusiness, marijuana retailer, marijuana secure transporter or any other type of marijuana related business authorized by the Act, that was engaged in prior to the enactment of this section, shall be deemed to have been a legally established use under the provisions of the City Code of Ordinances; that use shall not be entitled to claim legal nonconforming status.
- F. Violations of this section are subject to the violations and penalties pursuant to section 40-118 of this chapter and may be abated as nuisances pursuant to chapter 23 of the Code of Ordinances.
- G. This section does not supersede rights and obligations with respect to the transportation of marijuana by marijuana secure transporters through the city to the extent provided by the Act, and does not supersede rights and the regulations under section 40-314 of this chapter 40 with respect to medical marijuana facilities established pursuant to the Michigan Medical Marijuana Act.

(Ord. No. 19-09, § 1, 4-8-19)

SEC. 40-332. - HAZARDOUS SUBSTANCE GROUNDWATER PROTECTION.

- A. *Applicability.* As set forth in this zoning ordinance, all businesses and facilities (except fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor) which:
 - 1. 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
 - 2. 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 comply with the following groundwater protection requirements.
- B. *Groundwater protection requirements:*
 - 1. *Groundwater protection, generally:*
 - a. The project and related improvements shall be designed to prevent groundwater contamination from hazardous substance discharge to the

natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater, street slopes, and natural and manmade drainage systems.

- b. Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.
- c. General purpose floor drains and storm drains shall be:
 - 1) Connected to an on-site holding tank (not a septic tank/drain field or a dry well) in accordance with state, county and municipal requirements; or
 - 2) Authorized through a state groundwater discharge permit; or
 - 3) Connected to a stormwater system.
- d. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate state and county permits and approvals.
- e. In determining conformance with the standards in this ordinance, the zoning administrator or planning commission, whichever is applicable, shall take into consideration the publication titled "Small Business Guide to Secondary Containment; Practical Methods for Above-ground Storage and Containment of Hazardous Substances and Polluting Materials," and other references.
- f. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health and the Ottawa County Health Department.

2. *Above-ground storage.*

- a. Primary containment of hazardous substances shall be product-tight containers which are protected from weather, leakage, accidental damage, and vandalism.
- b. Secondary containment for the storage of hazardous substances and polluting materials is required. Secondary containment shall be one of the following, whichever is greatest:
 - 1) Sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance; or
 - 2) Shall be at least as great as volumes required by state or county regulations; or

- 3) Shall, if not protected from rainfall, contain a minimum of:
 - a) One hundred ten (110) percent of the volume of the largest storage container within the dike of the secondary containment area; plus
 - b) The volume that is occupied by all other objects within and below the height of the dike of the secondary containment area; plus
 - c) The volume of a six-inch rainfall.
 - c. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
 - d. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled, stored or used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater or soils.
 - e. State of Michigan and federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal shall be met.
 - f. Bulk storage of pesticides shall be in accordance with requirements of the Michigan Department of Agriculture.
3. *Underground storage.*
- a. Underground storage tank installation, operation, maintenance, closure and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the Michigan Department of Natural Resources.

Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.