

Article 1 General Provisions and Definitions

Section 1.01 Title.

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

Section 1.02 Intent.

This zoning ordinance is intended to implement:

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

Section 1.03 Purpose.

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

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

Section 1.04 Interpretation; Conflict of Laws.

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

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

Section 1.05 Changes and Amendments.

- A. **Procedure.** The City Commission and Township Board, on its own motion or petition, may amend or repeal zoning boundaries or regulations after submitting them to the Joint Planning Commission for its recommendation, report and public hearing. The City Commission and/or the Township Board may also hold a public hearing with the notice it deems advisable. A hearing before the Joint Planning Commission shall be granted by a person interested at the time of its public hearing. The procedure for the Joint Planning Commission public hearing shall be as follows:
1. At least 15 days notice of the public hearing shall be given in an official newspaper of general circulation in the City and Township.
 2. At least 15 days notice of the time and place of the public hearing shall be mailed to each airport manger, electric, gas, pipeline, telephone, telecommunications provider, public utility company, and to each railroad company owning or operating any public utility or railroad within the districts affected that registers it’s name and mailing address with the City and Township Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.
 3. After the ordinance and maps have first been approved by the City Commission and Township Board, if an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearings shall be given at least 15 days before the hearing to:
 - a. The owners of the property in question, unless 11 or more adjacent properties are proposed for rezoning; and all persons to whom real property is assessed with 300 feet of the boundary of the property in question, unless 11 or more adjacent properties are proposed for rezoning; and
 - b. All persons to whom real property is assessed within 300 feet of the boundary of the property in question, unless 11 or more adjacent properties are proposed for rezoning; and
 - c. At least one occupant of each dwelling unit or spatial area owned or leased by different persons with 300 feet of the boundary of the property in question. Where a single structure contains more than four dwelling units or district spatial areas, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance to the structure. The occupants of all structures within 300 feet of the boundary of the property in question. Where the name of the occupant is not known, the term “occupant” may be used in making notification unless 11 or more adjacent properties are proposed for rezoning.
- B. **Notice.** The notice shall contain the following:
1. A description of the proposed zoning;
 2. A description of the subject property including a listing of all existing street addresses within the property where they exist, unless 11 or more adjacent properties are proposed for rezoning;
 3. The time and place of the public hearing; and
 4. When and where written comments will be received.

- C. Protest. If a protest of the proposed amendment is presented to the City Commission and Township Board at or before final action on the amendment and it is properly signed by the owners of at least 20 percent of the area of land included in the proposed change, excluding publicly owned land, or by the owners of at least 20 percent of the area of and included within an area extending out 100 feet from any point on the boundary of land included in the proposed change, excluding publically owned land, then such amendment shall be passed only upon five affirmative votes of the **City Commission and -- affirmative votes of the Township Board.**
- D. Hearing Request. **The City Commission and Township Board shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the City Clerk and Township Clerk.**
- E. Publication. Following the adoption of a zoning ordinance or amendment by the City Commission and Township Board, a notice of adoption shall be published in a newspaper of general circulation in the City and Township within 15 days after adoption. The notice shall include the following information:
1. In the case of a newly adopted zoning ordinance, the following statement: A zoning ordinance regulating the development and use of land has been adopted by the City Commission of the City of Traverse City and Township Board of the Charter Township of Garfield;”
 2. In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;
 3. The effective date of the ordinance; and
 4. The place and time where a copy of the ordinance may be purchased or inspected.
- F. Court Decree. An amendment for the purpose of conforming a provision of the Zoning Ordinance to a decree of a court of competent jurisdiction may be adopted by the City Commission and Township Board and the notice of the adopted amendment published without referring the amendment to the Joint Planning Commission.

Section 1.06 Application of Code; Compliance Required.

Except as otherwise allowed by the Zoning Ordinance:

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

- E. The minimum setbacks, parking spaces and other open spaces, including lot area per dwelling, required by the Ordinance for any building hereafter built or structurally altered, shall not be encroached upon or considered as parking, setback, open space or lot area requirement for any other building, not shall any lot area be reduced beyond the district requirements of this Ordinance.
- F. No setback or lot shall be reduced in dimensions or area below the minimum requirements set forth herein except as a result of governmental action. Lots created after the effective date of their ordinance shall meet at least the minimum requirements of this Ordinance.
- G. No lot, once established or improved with a building or structure shall be divided unless each lot resulting from the division conforms with all of the requirements of this Ordinance.

Section 1.07 Severability.

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

Section 1.08 Definitions.

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