

ARTICLE 3

ADMINISTRATION AND ENFORCEMENT

Section 3.1 Zoning Administration.

The Zoning Administrator, or his/her designees, shall be appointed by the City Manager and designated to administer and enforce the provisions of this Ordinance.

Section 3.2 Duties.

The Zoning Administrator shall:

3.2.1. Receive and review for completeness all applications for site condominium projects, site plan review, and conditional use permits which the Planning Commission and City Council are required to decide under this Ordinance and refer such applications to the Planning Commission and City Council for determination.

3.2.2. Receive and review for completeness all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications to the Zoning Board of Appeals for determination.

3.2.3. Receive and review for completeness all applications for amendments to this Ordinance and refer such applications to the Planning Commission and City Council for determination.

3.2.4 Review applications and site plans, make site inspections, and issue land use permits for Agriculture/open space (AG/OS), residential (R-1A, R-1B), multi-family (R-2, R-3) and commercial I, C-1, C-2, C-3A, C-3B and CBD) districts. Commercial and multi-family applications are limited to signs, parking, fences, accessory buildings, new business registration, demolition, additions/alterations/remodeling of less than 25% of the existing principal building, and other limited uses as authorized by this ordinance.

3.2.5 Make periodic site inspections of the City to determine Ordinance compliance, and answer complaints on Zoning Ordinance violations.

3.2.6 Shall, after giving notice to perfect a violation of the ordinance, have the right to revoke a land use permit if the violation is not corrected within a reasonable period of time or issue a civil infraction.

3.2.7 Implement the decisions of the Planning Commission and City Council.

Section 3.3 Conditional Land Uses.

3.3.1. Application. Applications for conditional land use permits authorized in this Ordinance shall be submitted to the Zoning Administrator on a form provided by the City. In addition to a complete application form, the applicant is required to submit a preliminary site plan prepared in accordance with Section 3.4, Site Plan Review. Incomplete submittals shall not be accepted by the Zoning Administrator.

3.3.2. Procedures.

1. Conditional land use permits may be granted by the Planning Commission at its discretion.
2. The Zoning Administrator shall review the proposed application and preliminary site plan to determine if all required information has been supplied, and forward the completed application, preliminary site plan, and supporting data to the Planning Commission for a recommendation.
3. Upon receipt of a recommendation by the Planning Commission, one notice that such a request has been received shall be published in accordance with Section 3.7.
4. After notice, and after a public hearing, if requested, the Planning Commission may deny, approve, or approve with conditions a request for a conditional land use. The decision of the Planning Commission shall be incorporated in a statement of conclusions relative to the conditional land use under consideration. Any decision which denies a request or imposes conditions upon its approval shall specify the basis for the denial or the conditions imposed.

The Planning Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the conditional use is proposed will be observed.

3.3.3. Basis of Determinations. The Planning Commission shall review the proposed conditional use in terms of the standards stated within this Ordinance and shall establish that such use and the proposed location:

1. Will be harmonious and in accordance with the general objectives or any specific objectives of the Master Plan.
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.
3. Will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future.
4. Will be an improvement in relation to property in the immediate vicinity and to the City as a whole.

5. Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.
6. Will not create excessive additional public costs and will not be detrimental to the economic welfare of the City.
7. Will be consistent with the intent and purposes of this Ordinance.

3.3.4. Duration, Voiding and Extensions of Permit. Unless otherwise specified by the Planning Commission, any conditional land use permit (CLU) granted under this section shall be null and void unless the development proposed shall have its first building permit issued within one (1) year from the date of the granting of the permit. The Zoning Administrator shall give notice by certified mail to the holder of a permit before voidance is actually declared. Said notice shall be mailed to the permit holder at the address indicated on said permit. Within thirty (30) days of receipt of notice of voiding of the permit, the applicant shall have the right to request an extension of the CLU permit from the Planning Commission. The Planning Commission may grant an extension thereof for good cause for a period not to exceed one (1) year.

The Zoning Administrator may suspend or revoke a CLU permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this Ordinance or of any other ordinances or regulations of the City.

3.3.5. Reapplication. No application for a conditional land use permit, which has been denied wholly or in part, shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the Planning Commission.

Section 3.4 Site Plan Review.

The Planning Commission shall have the authority to review and to approve or reject all site plans (i.e. preliminary, final and combined site plans), taking into account the recommendations of the Zoning Administrator. Prior to the issuance of building permits or commencement of construction, a site plan review and approval is required in accordance with the procedures contained in this section.

3.4.1. Where required.

1. Site plan review is required for all new construction of any nonresidential building or structure on any parcel and for any new residential single-family, two-family or multiple-family developments. All such construction or developments shall be consistent with the purpose of this Ordinance as presented in Section 1.2 of this Ordinance.
2. Site plan review is required for all proposed uses and certain existing uses within the City where an alteration, addition, expansion, change or conversion constitutes an increase or reduction to the existing structure or use of more than five hundred (500)

square feet or ten (10%) percent, whichever is less; or would require a variance from the provisions of this Ordinance, regardless of its size, or there is a change of use from the existing use. Site plan review shall also be required prior to the paving of any off-street parking for any use for which off-street parking is required by this Ordinance, or for the construction of new parking lots or driveways.

3. Site plan review shall not be required for individual single-family dwellings, or residential accessory storage buildings. However, a site plan shall accompany a land use application to be reviewed and approved by the Zoning Administrator to insure such improvements meet all of the requirements of this ordinance.
4. The City shall not issue a land use permit until a final site plan has been approved and is in effect. A use, not involving a building or structure, shall not be commenced or expanded, nor shall the Zoning Administrator or designee issue a land use permit for such use until a final site plan has been approved and is in effect.
5. No grading, removal of trees or other vegetation, land filling or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect, except as otherwise provided in this Article.

3.4.2. Preliminary Site Plan

1. Application. Any applicant may submit a request for preliminary site plan review by filing with the Zoning Administrator completed forms, payment of the review fee, and ten (10) copies of the preliminary site plan drawing(s). The Administrator, upon receipt of the application, shall transmit only complete submittals of the preliminary site plan drawings to the Planning Commission prior to its next regular meeting. The purpose of such preliminary review is to confirm general compliance with City standards as well as to suggest changes, if necessary, for final site plan approval.
2. Information Required. Each preliminary site plan submitted for review shall provide the following information:
 - a. property owners and applicant's name and address;
 - b. scale, north arrow, and date of plan;
 - c. location, description, dimensions, and area of the site; zoning classification; and, demonstration of compliance with lot area, width, coverage and setback requirements.
 - d. general topography and soils information and existing natural and man-made features to be retained or removed;
 - e. location and dimensions of proposed buildings/structures; including floor area, number of floors, height, number and type of dwelling units (where applicable);

- f. proposed streets/drives; including general alignment, right-of-way, surface type, and width to be consistent with adjacent streets and drives and the expansion of advancement of the purpose of the traditional town plan;
 - g. proposed parking; including location and dimensions of spaces and aisles, and surface type;
 - h. adjacent land uses, property owners, and zoning and location of adjacent buildings and drives/streets;
 - i. proposed phasing;
 - j. location and width of any easements on the site.
3. Planning Commission Action. The Planning Commission shall make a decision to approve, approve with conditions or deny the preliminary site plan within sixty (60) days from the date of the Planning Commission meeting at which the site plan is first heard. The Planning Commission shall set forth the reason for its action in the record of the meeting at which action is taken. The time limit may be extended upon a written request by the applicant and approval by the Planning Commission.
 4. Effect of Approval. Approval of a preliminary site plan by the Planning Commission shall indicate its general acceptance of the proposed layout of buildings, streets and drives, parking areas, other facilities and overall character of the proposed development. The Planning Commission may, at its discretion, and with appropriate conditions attached, authorize issuance of grading and foundation permits on the basis of the approved preliminary site plan. The authorization, however, will be used only in those situations in which seasonable conditions, such as the onset of frost, or other severe time limitations might, in the Planning Commission opinion, unduly delay the commencement of construction until after the final site plan is approved. The Planning Commission shall attach appropriate conditions to such authorization.
 5. Expiration of Approval. Approval of a preliminary site plan shall be valid for a period of one hundred eighty (180) days from the date of approval and shall expire and be of no effect unless an application for a final site plan is filed with the Zoning Administrator within that time period. The Zoning Administrator or duly appointed agent shall, within ten (10) days of the date of approval of the preliminary site plan by the Planning Commission, transmit a written certification of such approval to the applicant.

3.4.3. Final Site Plan.

1. Application. Following approval of a preliminary site plan, the applicant shall submit to the Zoning Administrator ten (10) copies of a final site plan as well as other data and exhibits hereinafter required, the review fee, and a completed application form. The Administrator, upon receipt of the application, shall transmit only complete submittals of the final site plan drawing(s) to the Planning Commission prior to its next regular meeting.

2. Information Required. A Final Site Plan submitted for review and approval shall contain all of the following data presented in a clear and legible format. Site Plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of no greater than 1" = 50' for property less than three acres or no greater than 1" = 100' for property three or more acres.

General Information

- a. Proprietors', applicants', and owners' names, addresses and telephone numbers.
- b. Date of preparation, including revisions.
- c. Scale.
- d. North point.
- e. Location map drawn at a scale of 1" = 2,000' with north point indicated.
- f. Architect, Engineer, Surveyor, Landscape Architect, or Planner's seal.
- g. Existing and proposed lot lines, building lines, structures, parking areas, etc., on the parcel and within one hundred (100) feet of the site.
- h. Centerline and existing and proposed right-of-way lines of any street.
- i. Zoning classification of petitioner's parcel and all abutting parcels.
- j. Gross acreage figure.

Physical Features

- a. Acceleration, deceleration and passing lanes and approaches.
- b. Proposed locations of access drives, street intersections, driveway locations, sidewalks, and curbing.
- c. Location of existing and proposed service facilities above and below ground, including:
 - 1) Chemical and fuel storage tanks and containers.
 - 2) Water supply facilities.
 - 3) Sanitary sewage disposal facilities.
 - 4) Storm water control facilities and structures.
 - 5) Location of all easements.
- d. Location of all structures with setback and yard dimensions.
- e. Dimensioned parking spaces and calculation, drives and method of surfacing.

- f. Exterior lighting locations and illumination patterns.
- g. Location and description of all existing and proposed landscaping, berms, fencing and walls.
- h. Trash receptacle pad location and method of screening.
- i. Transformer pad location and method of screening.
- j. Dedicated road or service drive locations.
- k. Entrance details including sign locations and size.
- l. Designation of fire lanes.
- m. Any other pertinent physical features.

Natural Features

- a. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service, Soil Survey of Crawford County, Michigan.
- b. Existing topography with a maximum contour interval of two (2) feet. Topography on the site and beyond the site for a distance of one hundred (100) feet in all directions should be indicated. Grading plan, showing finished contours at a maximum interval of two (2) feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.
- c. Location of existing drainage courses and associated bodies of water, on and off site, and their elevations.
- d. Location of existing wetlands.
- e. Location of natural resource features, including woodlands and areas with slopes greater than ten (10%) percent (one (1) foot of vertical elevation for every ten (10) feet of horizontal distance).

Additional Requirements for Residential Developments

- a. Density calculations by type of unit by bedroom counts.
- b. Designation of units by type and number of units in each building.
- c. Carport or garage locations and details where proposed.
- d. Specific amount and location of recreation spaces.

Additional Requirements for Commercial and Industrial Developments

- a. Loading/unloading areas.
 - b. Total and useable floor area.
 - c. Number of employees in peak usage.
3. Standards for Review. In reviewing the final site plan, the Planning Commission shall determine whether the plan meets the following specifications and standards:
- a. The plan conforms to the approved preliminary site plan and with all Zoning Ordinance regulations;
 - b. All required information is provided;
 - c. The proposed use will not be injurious to the surrounding neighborhood and protects the general health, safety, welfare and character of the City.
 - d. There is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides of the buildings.
 - e. The location of buildings is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas.
 - f. Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, soils, groundwater and woodlands.
 - g. Storm water management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body or water course, or cause alterations which could increase flooding or water pollution on or off site.
 - h. Wastewater treatment systems, including on-site septic systems, will be located to minimize any potential degradation of surface water or groundwater quality and meet County and State standards.
 - i. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby water bodies in accordance with County and State standards.

- j. Landscaping, including grass, trees, shrubs and other vegetation is provided to maintain and improve the aesthetic quality of the site and area.
 - k. The proposed use is in compliance with all City Ordinances and any other applicable laws.
4. Planning Commission Action. The Planning Commission shall make a decision to approve, approve with conditions, or deny the final site plan within sixty (60) days of the date of the Planning Commission meeting at which the site plan is first heard. The time limit may be extended upon a written request by the applicant and approved by the Planning Commission. The Planning Commission may suggest and/or require modifications in the proposed final site plan as are needed to gain approval.
 5. Effect of Approval. Approval of a final site plan authorizes issuance of a land use permit.
 6. Expiration of Approval. Approval shall expire and be of no effect unless a building permit shall have been taken out within one hundred eighty (180) days of the date of approval of the final site plan. Also, approval of a final site plan shall expire and be of no effect one year following the date of approval unless construction has begun on the property in conformance with the approved final site plan.

3.4.4. Combining Preliminary and Final Site Plans. An applicant may, at his discretion and risk, combine a preliminary and final site plan in application for approval. In such a situation the portion of the review process concerning preliminary site plan application and review may be waived by the Planning Commission. The Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan, where, in its opinion, the complexity and/or scale of the site for the proposed development so warrant. A preliminary and final site plan shall not be combined for any development consisting of two (2) or more phases.

3.4.5. Amendment of Approved Site Plan. The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The Zoning Administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing (s) be submitted showing such minor changes, for purposes of record. In considering such a determination, the Zoning Administrator shall consider the following to be a minor change:

1. Change in size of structures, for residential buildings by up to five percent (5%), provided that the overall density of units does not increase.
2. Change in square footage of non-residential buildings by up to five percent (5%) or one thousand (1,000) square feet, whichever is smaller.
3. Alterations to horizontal and/or vertical elevations by up to five percent (5%).
4. Movement of a building or buildings by no more than ten (10) feet.
5. Increase in designated "areas not to be disturbed."

6. Replacement of plantings approved in the site plan landscape plan by similar types and sizes of landscaping which provides a similar screening effect on a one-to-one (1:1) or greater basis, with approval of the Zoning Administrator.
7. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
8. Changes of building materials to another of higher quality, as determined by the Zoning Administrator.
9. Changes in floor plans which do not alter the character of the use.
10. Slight modification of sign placement or reduction of size.
11. Relocation of sidewalks and/or refuse storage stations.
12. Internal rearrangement of parking lot which does not change the number of parking spaces by more than five percent (5%) or alter access locations or design.
13. Changes required or requested by the City for safety reasons.

3.4.6. **Modification of Plan During Construction.** All improvements shall conform to the final site plan. It shall be the responsibility of the applicant to notify the Zoning Administrator of any such changes prior to such change being made. Any changes considered more than a minor change as defined above shall require re-submittal to the Planning Commission. The Planning Commission or Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

3.4.7. **Phasing of Development.** The applicant may, at his discretion, divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, the size, and character of each phase. A final site plan may be submitted for review and approval for each phase. Performance guarantees or other conditions may be imposed on future phases by the City to ensure necessary improvements are completed throughout the development to assure logical extensions of roads or other infrastructure.

3.4.8. **Inspection.** The Zoning Administrator or designee shall be responsible for inspecting all improvements for conformance with the approved final site plan. All sub-grade improvements such as utilities; sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspection.

The Building Inspector shall notify the Zoning Administrator, in writing, when a development for which a final site plan as approved has passed inspection with respect to the approved final site plan. The Building Inspector shall notify the Zoning Administrator, in writing, of any development for which a final site plan was approved, which does not pass inspection with respect to the approved final site plan, and shall advise the Zoning Administrator of steps taken to achieve compliance. In such case, the Building Inspector shall periodically notify the Zoning

Administrator of progress towards compliance with the approved final site plan and when compliance is achieved. A partial certificate of occupancy shall be issued until the Zoning Administrator has inspected the site for compliance with the total site plan. Thereafter, upon approval of the full site plan, a certificate of occupancy will be issued

3.4.9. Violations. The approved final site plan shall regulate development of the property and any violation of this Article, including any improvement not in conformance of the approved final site plan, shall be deemed a violation of this Ordinance as provided in Article 1 of the Code of Ordinances, and shall be subject to all penalties therein.

Section 3.5 Land Use Permits

At the time of adoption of this ordinance, the County of Crawford Building Department issues, regulates, and enforces building permits on behalf of the City. The City of Grayling regulates land uses through the issuance of land use permits. All uses of land regulated by this zoning ordinance must first receive an approved land use permit except as otherwise specified herein. All land use permits expire within one year unless construction or said activity has commenced. All building projects must be completed within two years of issuance of the land use permit. An extension may be granted if requested before the expiration of the permit and a specific plan for completion with time tables are presented.

3.5.1 Land Use Permit Application. An application for a land use permit under this ordinance shall be made to the zoning administrator or his designated agent on a form provided by the City and shall contain or have attached thereof the following information:

1. Name, address and telephone number of the applicant and the owner if different from the applicant.
2. The address or legal description of the lot where the proposed use will occur.
3. The applicant must demonstrate proof of legal possession of the land for the proposed use.
4. A site plan showing the location of the proposed use and its relationship to all existing and proposed structures and lot lines.
5. Plans and specifications for the proposed use including the following information:
 - a. Exact dimensions including height and distance from structures and lot lines.
 - b. The type of use according to the definitions of this zoning ordinance.
 - c. A sketch of the footprint of all buildings and structures and type and amount of paving and landscaping which will appear on the property.
 - d. The materials out of which the proposed construction is to be made.

3.5.2 Permit Fees. All applications shall be accompanied by a land use permit application fee as established in the fee schedule which shall be adopted and amended from time to time by the City Council. The permit application fee shall reimburse the City for the costs of checking the application for compliance with the ordinance and shall reimburse the City for the costs of necessary inspections. The land use fees do not include electrical permits or building permit fees or other fees which may be required.

Section 3.6 Site Condominium Project Regulations.

3.6.1. Intent. Pursuant to the authority conferred by Section 141 of the Condominium Act, preliminary and final site plans shall be regulated by the provisions of this Ordinance and subject to the review by the Planning Commission and approval of the City Council.

3.6.2. General Requirements.

1. Each condominium lot shall be located within a zoning district that permits the proposed use.
2. Each condominium lot shall front on and have direct access to a public street approved by the City.
3. For the purposes of this ordinance, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.
4. In the case of a site condominium containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use except in a PUD district. Required yards shall be measured from the boundaries of a condominium lot.

3.6.3. Site Plan Approval Requirements. Preliminary approval of the site plan and final approval of the site plan and condominium documents including Master Deed and Bylaws by the Planning Commission and City Council shall be required as a condition to the right to construct, expand or convert a site condominium project. No permits for erosion control, building construction, grading, or installation of public water or sanitary sewerage facilities shall be issued for property in a site condominium development until a final site plan has been approved by the City Planning Commission and City Council and is in effect. Preliminary and final approval shall not be combined.

1. Preliminary Approval.

- a. A preliminary site plan pursuant to the standards and procedures set forth in Section 3.4 of this Ordinance shall be submitted to the Planning Commission for preliminary review.

- b. If the site plan conforms in all respects to applicable laws, ordinances and design standards, preliminary approval shall be granted by the Planning Commission.
- c. If the site plan fails to conform, the Planning Commission shall either deny the application, or grant preliminary approval with conditions, provided such conditions are met before final approval.

2. Final Approval.

- a. Following preliminary approval, the applicant shall submit a final site plan, Master Deed, and Bylaws pursuant to the standards and procedures set forth in Section 3.4.3 of this Ordinance. In addition to the final site plan, the Condominium Documents shall be submitted to the City for the review by the City Attorney and other appropriate staff and consultants. The Condominium Documents shall be reviewed with respect to all matters subject to regulation by the City including, without limitation: ongoing preservation and maintenance of drainage, retention, wetland and other natural and/or common area; maintenance of private roads, if any; and maintenance of storm water, sanitary, and water facilities and utilities.
- b. The applicant shall also submit engineering plans in sufficient detail for the City, to determine compliance with applicable laws, ordinances and design standards for construction of the project.
- c. Upon completion of the review of the Condominium Documents and engineering plans and receipt of the recommendations and findings from the City Attorney, Engineer and Planner, the site plan shall be submitted to the City Council for final review.
- d. If the site plan, Condominium Documents and/or engineering plans conform in all respects to applicable laws, ordinances and design standards, final approval shall be granted by the City Council.
- e. If the site plan, Condominium Documents and/or engineering plans fail to conform, final approval shall be denied by the City Council.
- f. In the interest of insuring compliance with this Ordinance and protecting the health, safety and welfare of the residents of the City, the City Council, as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in Section 3.9 of the Zoning Ordinance for the completion of improvements associated with the proposed use.

3.6.4. Required Improvements:

- 1. All design standards and required improvements that apply to a subdivision, under the Subdivision Regulations adopted by the City Council, shall apply to any condominium development.

2. Each condominium unit shall be connected to the City water, sanitary and storm sewers. Utility standards stated in Chapter 40 shall apply to all condominium units. Furthermore, the utility provisions stated in Chapter 10, Subdivision Regulations shall apply to all condominium units proposed for location on property which is not subdivided and recorded, or property which is to be further subdivided. Each individual condominium unit shall be considered a residential equivalent unit as defined in Chapter 10.
3. Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines.

The City may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year, on condition that the developer deposit with the City Clerk cash, a certified check, or an irrevocable bank letter of credit running to the City, whichever the developer selects, in an amount as determined from time to time by resolution of the City Council. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified. If the developer defaults, the City Council shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not-to-exceed the amount of the security deposit which shall include City administrative costs.

4. Road rights-of-way shall be described separately from individual condominium lots, and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The right-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing of public utilities. The developer shall declare easements to the City for all public water and sanitary sewer lines and appurtenances.
5. All improvements in a site condominium shall comply with the design specifications as adopted by the City Council and any amendments thereto.

3.6.5. Information Required Prior to Occupancy. Prior to the issuance of an occupancy permit for any condominium unit, the applicant shall submit the following to the Zoning Administrator:

1. A copy of the recorded Condominium Documents (including exhibits, Master Deed, and Bylaws).
2. A copy of any recorded restrictive covenants.
3. A copy of the site plan on laminated photo static copy or mylar sheet.
4. Evidence of completion of improvements associated with the proposed use including two copies of an “as-built survey”.

3.6.6. **Revision of Site Condominium Plan.** If the site condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued, where such permit is required.

3.6.7. **Amendment of Condominium Documents.** Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan or any conditions of approval of a preliminary or final site plan shall be reviewed and approved by the City Attorney and Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.

3.6.8. **Relocation of Boundaries.** Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the by-laws and recorded as part of the master deed.

3.6.9. **Subdivision of Condominium Lot.** Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium by-laws and recorded as part of the master deed.

Section 3.7 Public Hearings

Unless otherwise required, notices for all public hearings shall be given as follows:

3.7.1 Except as noted in Section 3.7.3 and 3.7.4 below, notices for all public hearings shall be given as follows:

1. Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing.
2. Notice of the hearing shall be published in a newspaper of general circulation.
3. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
4. Notice shall also be sent by mail to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

3.7.2 Public Hearing Notices shall contain the following information:

1. Description of the nature of the request.

2. Identification of the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
3. Location of when and where the request will be considered.
4. Information regarding when and where written comments will be received concerning the request.

3.7.3 Newspaper publication as required in 3.7.1 above shall be the only notice required for an amendment to the Zoning Ordinance or the zoning map that affects eleven (11) or more properties.

3.7.4 For ordinance interpretations and appeals of administrative decisions by the Zoning Board of Appeals notice that does not affect a specific property shall be only to the applicant and by newspaper publication, as required in 3.7.1 above.

Section 3.8 Amendments to the Zoning Ordinance.

3.8.1 Application Procedure.

1. An amendment to the official zoning map, this Ordinance or the Master Plan, except those initiated by the City Council or Planning Commission, shall be initiated by submission of a completed application on a form supplied by the City, including an application fee, which shall be established from time to time by resolution of the City Council.
2. In the case of an amendment to the official zoning map (rezoning), the following information shall accompany the application:
 - a. A legal description and street address of the subject property, together with a map identifying the subject property in relation to surrounding properties.
 - b. The name, signature and address of the owner of the subject property, a statement of the applicant's interest in the subject property if not the owner in fee simple title, or proof of consent from the property owner.
 - c. The existing and proposed zoning district designation of the subject property.
 - d. A site analysis site plan illustrating existing conditions on the site and adjacent properties; such as woodlands, wetlands, soil conditions, steep sloped, drainage patterns, views, existing buildings, any sight distance limitations and relationship to other developed sites and access points in the vicinity.
 - e. A conceptual plan demonstrating that the site could be developed with representative uses permitted in the requested zoning district meeting requirements for setbacks, wetland buffers access spacing, any requested service drives and other site design factors.

- f. A written environmental assessment describing site features and anticipated impacts created by the host of uses permitted in the requested zoning districts.
 - g. A traffic impact analysis shall be provided if any use permitted in the requested zoning district could generate 100 or more peak hour directional trips, or 1,000 or more vehicle trips per day; the traffic study should contrast the daily and peak hour trip generation rates for representative use in the current and requested zoning district; the determination of representative uses shall be made by the Planning Commission with input from city staff and consultants.
 - h. A written description of how the requested rezoning meets Section 3.8.3.
- 3. In the case of an amendment to the official zoning map (rezoning), the site must be staked to clearly indicate the location of the requested amendment. Flagged stakes shall be placed at each parcel corner.
 - 4. In the case of an amendment to the Master Plan or this Ordinance, other than an amendment to the official zoning map, a general description of the purpose and intent of the proposed amendment shall accompany the application form.

3.8.2 Rezoning, Zoning Ordinance, and Master Plan Amendment Procedure

- 1. Upon initiation of a rezoning, zoning ordinance text amendment or master plan amendment, a public hearing on the proposed amendment shall be scheduled before the Planning Commission in accordance with Section 3.7.
- 2. Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the City Council, except in the case of a Master Plan amendment. In the case of an amendment to the official zoning map (rezoning), the Planning Commission shall consider the criteria contained in Section 3.8.3, below, in making its finding and recommendation.
- 3. Following receipt of the findings and recommendation of the Planning Commission, the City Council shall consider the proposed amendment. In the case of an amendment to the text of this Ordinance, the City Council may modify or revise the proposed amendment as recommended by the Planning Commission, prior to enactment. In the case of an amendment to the official zoning map (rezoning), the City Council shall approve or deny the amendment, which may be based on consideration of the criteria contained in Section 3.8.3, below.
- 4. No petition for rezoning, zoning ordinance text amendment or Master Plan amendment that has been denied by the City Council or Planning Commission (Master Plan amendment) shall be resubmitted for a period of one (1) year from the date of denial except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the Planning Commission.

3.8.3 Criteria for Amendment of the Official Zoning Map (Rezoning)

In considering any petition for an amendment to the official zoning map (rezoning), the Planning Commission shall and the City Council may consider the following criteria in making its findings, recommendations, and decision:

1. Consistency with the goals, policies and Future Land Use Map of the City of Grayling Master Plan, including any subarea or corridor studies. If conditions have changed since the City of Grayling Master Plan was adopted, the consistency with recent development trends in the area.
2. Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.
3. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning.
4. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.
5. The capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the City.
6. The apparent demand for the types of uses permitted in the requested zoning district in the City in relation to the amount of land in the City currently zoned to accommodate the demand.
7. Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.

3.8.4 Amendments Required to Conform to Court Decree

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the City Council and published, without necessity of a public hearing or referral thereof to any other commission or agency.

3.8.5 Conditional Rezoning

1. **Conditional Rezoning.** An applicant for a rezoning may voluntarily offer a Conditional Rezoning along with an application for rezoning before or following the public hearing for a proposed rezoning. An election to submit a Conditional Rezoning shall be pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), and this Section.

- a. A Conditional Rezoning shall be a written agreement executed by the applicant and the City, shall be in recordable form and shall be recorded with the Crawford County Register of Deeds after execution.
 - b. A Conditional Rezoning may include limitations on the uses permitted on the property in question, specify lower or varying density or less intensity of development and use, or may impose more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features than would otherwise be provided in this Ordinance.
 - c. A Conditional Rezoning may not authorize uses or developments of greater intensity or density, or which are not permitted in a proposed zoning district; nor may a Conditional Rezoning permit variations from height, area, setback or similar dimensional requirements that are less restrictive than a proposed zoning district.
 - d. A Conditional Rezoning shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. A Conditional Rezoning may include conditions related to the use and development of the property that are necessary to:
 - 1) Serve the intended use of the property such as improvements, extension, widening, or realignment of streets, utilities, or other infrastructure serving the site.
 - 2) Minimize the impact of the development on surrounding properties and the City overall.
 - 3) Preserve natural features and open space beyond what is normally required.
2. **Content of Agreement.** In addition to any limitations on use or development of the property or preservation of property features or improvements as described above, a Conditional Rezoning shall also include the following:
- a. An acknowledgement that the Conditional Rezoning was proposed voluntarily by the applicant.
 - b. An agreement and understanding that the property shall not be developed or used in any manner that is not consistent with a Conditional Rezoning.
 - c. An agreement and understanding that the approval of a rezoning and a Conditional Rezoning shall be binding upon and inure to the benefit of the property owner and the City, and their respective heirs, successors, assigns, receivers or transferees.
 - d. An agreement and understanding that, if a rezoning with a Conditional Rezoning becomes void for any reason including, but not limited to, reasons

identified in this Section, then no further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established.

- e. An agreement and understanding that no part of a Conditional Rezoning shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.
 - f. A legal description of the land to which the agreement pertains.
 - g. Any other provisions as are agreed upon by the parties.
3. **Process.** A Conditional Rezoning shall be reviewed concurrently with a petition for rezoning following the process in Section 3.8.2, and the following:
- a. A Conditional Rezoning may be submitted prior to or following the Planning Commission public hearing. If the agreement is submitted following the Planning Commission public hearing, it must be reviewed by Planning Commission and a second public hearing shall be held prior to the Planning Commission making its recommendation on the rezoning and Conditional Rezoning to the City Council. A Conditional Rezoning shall be reviewed by the City Attorney to determine that it conforms with the requirements of this Section, this Ordinance, and the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and that the Conditional Rezoning is in a form acceptable for recording with the Crawford County Register of Deeds.
 - b. Following a public hearing for a proposed zoning amendment, the Planning Commission shall make a recommendation to the City Council based upon the criteria listed in Section 3.8.3. In addition, following a public hearing to consider a Conditional Rezoning, the Planning Commission shall consider and address in written findings whether a proposed Conditional Rezoning:
 - 1) Is consistent with the intent of this Article.
 - 2) Bears a reasonable and rational connection and/or benefit to the property being proposed for rezoning.
 - 3) Is necessary to insure that the property develops in such a way that protects the surrounding neighborhood.
 - 4) Leads to a better development than would have been likely if the property had been rezoned without a Conditional Rezoning, or if the property were left to develop under the existing zoning classification.
 - 5) Is clearly in the public interest.
 - c. If a Conditional Rezoning has been offered by the applicant and recommended for approval by the Planning Commission, the City Council

may approve a Conditional Rezoning as a condition to the rezoning if it meets all requirements of subsection 2 above. The Conditional Rezoning shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.

- d. If a rezoning and Conditional Rezoning are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the Conditional Rezoning the City Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
- e. All other requirements of this Ordinance or any other City ordinances shall apply to the property to which a Conditional Rezoning applies.

4. **Expiration**

- a. Unless extended by the City Council for good cause, a rezoning and Conditional Rezoning shall expire two (2) years after adoption of the rezoning and Conditional Rezoning, unless substantial construction on the approved development of the property pursuant to building and other required permits issued by the City commences within the two (2) year period and proceeds diligently to completion.
- b. In the event that substantial construction on the approved development has not commenced within the aforementioned two (2) years, or if construction and development does not proceed diligently to completion thereafter, a Conditional Rezoning and rezoning shall be void and of no effect.
- c. Should a Conditional Rezoning become void, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the City is taken to bring the property into compliance with this Ordinance, the City may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.
- d. Notwithstanding the above, if the property owner applies in writing for an extension of a rezoning and a Conditional Rezoning at least thirty (30) days prior to the expiration date, the City Council may, in its sole discretion, grant an extension of up to one (1) year. Future extensions may be granted, although the number of previous extensions granted to a particular rezoning and Conditional Rezoning shall be considered by the City Council.

- 5. **Reversion of Zoning.** If a rezoning and Conditional Rezoning become void as outlined above, then the zoning classification of the property shall revert back to its previous zoning classification. The reversion process shall be initiated by the City Council by requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all

other rezoning requests, including the notice and hearing as required by the Michigan Zoning Enabling Act (Public Act 110 of 2006), and this Ordinance. No building or other permit shall be issued or valid during the process described in this subsection.

6. **Continuation.** Provided that all development and/or use of the property in question is in compliance with a Conditional Rezoning, a use or development authorized thereunder may continue indefinitely, provided that all terms of a Conditional Rezoning continue to be adhered to.
7. **Amendment**
 - a. During an initial two (2) year period, or during any extension granted by the City as permitted above, the City shall not add to or alter a Conditional Rezoning, even with the landowner's consent.
 - b. A Conditional Rezoning may be amended after the expiration of an initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and Conditional Rezoning.
8. **Violation of Agreement.** Failure to comply with a Conditional Rezoning at any time after approval will constitute a breach of the agreement and also a violation of this Ordinance and further use of the property may be subject to legal remedies available to the City. Any violation of a Conditional Rezoning that is not cured within thirty (30) days after written notice of the violation is given shall permit the City Council, in its sole discretion, to declare a Conditional Rezoning void ab initio and of no effect.
9. **Subsequent Rezoning of Land.** Nothing in a Conditional Rezoning, nor any statement or other provision, shall prohibit the City from later rezoning all or any portion of the property that is the subject of a Conditional Rezoning to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act (Public Act 110 of 2006).
10. **Failure to Offer Conditions.** The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this Ordinance.

Section 3.9 Performance Guarantee.

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety, and welfare of the residents of the City and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the City Council upon the recommendation of the Planning Commission shall require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, streets, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.

3.9.1. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of 125% the estimated cost of the improvements to be made as determined by the applicant and acceptable by the City. The City shall be authorized to employ the City engineering consultant to review cost estimates and conduct periodic inspection of the progress of improvements.

3.9.2. Where the City Council requires a performance guarantee, said performance guarantee shall be deposited with the City prior to the issuance of a land use permit for the development and use of the land. Upon the deposit of the performance guarantee the City shall issue the appropriate permits.

3.9.3. The approval shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the land use permit.

3.9.4. The Zoning Administrator, upon the written request of the applicant, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.

3.9.5. Upon the satisfactory completion, as determined by the City, of the improvement for which the performance guarantee was required, the City shall return to the applicant the performance guarantee deposited and any interest earned thereon. However, the City is not required to deposit the performance guarantee in an interest-bearing account.

3.9.6. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the City, the City shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically, the right to enter upon the subject property to make the improvements.

If the performance guarantee is not sufficient to allow the City to complete the improvements, the applicant shall be required to pay the City any of the additional costs of completing the improvements. Should the City use the performance guarantee, or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the City's administrative costs including, without limitation, attorney fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant.

If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the City to insure completion of an improvement the applicant shall not be required to deposit with the City a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the City and prior to the issuance of a building permit, the applicant shall enter an agreement incorporating the provisions hereof with the City regarding the performance guarantee.

Section 3.10 Use of Consultants.

From time to time, the City Council and/or Planning Commission may employ planning, engineering, legal, traffic or other special consultants to assist in the review of conditional land use permits, site plans, re-zonings or other matters related to the planning and development of the City.

Section 3.11 Fees.

The City Council shall establish a schedule of fees, charges, escrow for consultants, and expenses, and a collection procedure, for land use permits, building permits, certificates of occupancy, appeals, and other matters pertaining to this ordinance. The City shall have the authority to include fees for the use of engineering, planning, legal or other special consultants. The schedule of fees shall be posted in the City Offices, and may be altered or amended only by the City Council. No permit, certificate, conditional use approval, or variance shall be issued unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, unless or until preliminary charges and fees have been paid in full.

Section 3.12 Violations and Penalties.

Uses of land, buildings, or structures, including tents and mobile homes, erected, altered, razed, or converted in violation of this Ordinance are hereby declared to be nuisances per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home, or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provisions of this Ordinance shall upon conviction thereof be subject to a fine of not more than "as per Council Resolution" and the costs of prosecution thereof, by imprisonment in the County Jail for a period not to exceed thirty (30) days, or both. Each day that a violation is permitted to exist from the time of formal citation by the City shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.