CHAPTER 900

ZONING ORDINANCE

900.1 ~~[EFFECTIVE DATE]~~This ordinance is effective~~-~~.

900.2 ZONING MAP

A. In compliance with 14 CFR Part 139 and the Grant Assurances, the Zoning Map shall be consistent with the current FAA approved Airport Layout Plan as may be amended from time to time and approved by the FAA. See Exhibit 1, Zoning Land Use Map.

900.3 DEFINITIONS

A. Aeronautical Activity: Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or that is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to, the following:

1) General and Corporate Aviation
2) Air Taxi and Charter Operations
3) Scheduled and Nonscheduled Air Carrier Ops
4) Pilot Training
5) Aircraft Rental and Sightseeing
6) Aerial Photography
7) Crop Dusting
8) Aerial Advertising and Surveying
9) Aircraft Sales and Services
10) Aircraft Storage
11) Sale of Aviation Petroleum Products
12) Repair and Maintenance of Aircraft
13) Sale of Aircraft Parts
14) Parachute or Ultralight Activities

B. Airport: A publicly owned airport licensed by the Michigan Department of Transportation under Section 86 of the Michigan Aeronautics Code and includes all airport facilities at the airport. An airport is publicly owned if the portion used for the landing and taking off of aircraft is owned, operated, controlled, leased to, or leased by the United States or an agency or department of the United States, this state, a local government, or another public corporation.

C. Airport Facilities: means any of the following at an airport:

1) Real or personal property, or an interest in real or personal property, used for the landing, taking off, taxiing, parking, or storing of aircraft, or for receiving or discharging passengers or cargo, an appurtenant area used for an airport building or other facility, and any appurtenant right-of-way.

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2) Real or personal property, including an easement, used for over-flight, noise abatement, a clear zone, a side transition zone, an environmental mitigation requirement, utilities, a drainage system, a right-of-way, or any other requirement imposed as a condition of approving the acquisition, construction, expansion, or operation of other airport facilities, whether or not located within the boundaries of the local government.
3) Structures, buildings, and improvements, including aeronautical and nonaeronautical, commercial or noncommercial structures, concessions, roadways, beacons, markers, communication systems, and navigational aids.
4) Any other improvements or facilities necessary, useful, or intended for use in the operation of an airport.

D. Airport Hazard: Per MCL 259.433, means any structure or tree or use of land or of appurtenances thereof which obstructs the air space required for the safe flight of aircraft in landing or taking off at an airport or is otherwise hazardous or creates hazards to such safe landing or taking off of aircraft.

E. Airport Layout Plan (ALP): The governing document for allowable development at the Cherry Capital Airport, subject to FAA approval.

F. Aviation-Related Activity: Any activity conducted on airport property that provides service or support to aircraft operators, passengers or air cargo. The following are examples of aviation-related activities:

1) Ground transportation
2) Auto parking lots
3) Concessions
4) Any other service or support to aircraft operators, passengers, or air cargo

G. Developer: The permittee as identified in the Zoning Permit and Construction Permit.

H. Exhibit A: The governing document for land and easements owned by the airport, subject to FAA requirements, including land use.

I. Federal Aviation Administration (FAA): The federal agency responsible for the safety of civil aviation.

J. Height: Highest point of proposed development above mean sea level (AMSL)

K. Minimum Standards: The Minimum Standards for Aeronautical Activities at Cherry Capital Airport adopted on October 26, 2021, as may be amended from time to time.

L. NEPA: National Environmental Policy Act, FAA Order 5050.4B

M. Setback: All setback distances shall be measured from an established property line or leasehold boundary. Buildings and parking are not intended to be allowed within setback areas, but the

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Zoning Administrator may allow utilities, appurtenances, and other items that are consistent with the intent of the setback provisions.

N. Zoning Ordinance: This ordinance regulating land development on the Airport.

O. Zoning Administrator: The NRAA Engineer or Airport Engineer

900.4 Rules of Construction:

A. Use Interpretations: The Standard Industrial Classification and NAICS manuals, have been relied upon by the drafters of this Ordinance for identification of and classification of uses. When questions of interpretation arise with respect to an applicant's propose~~s~~d use, the SIC/NAICS classifications may be relied upon as an aid.

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

C. Uses Not Listed. Except as may otherwise be permitted by interpretation under 900.4 D, a use not specifically mentioned or described by category in a specific zoning district is prohibited.

~~C.~~D. Materially Similar Uses N~~n~~ot M~~m~~entioned. When a materially similar use is not expressly mentioned anywhere in this Zoning Ordinance, the Zoning Administrator shall make an interpretation as to what district or districts should accommodate the use. The decision shall be based on the intent of each district, similar uses mentioned in a district, and recognized rules of interpretation. The Zoning Administrator's decision shall be appealable to the Zoning Board of Appeals.

~~D.~~E. Conflict of Laws. This Zoning Ordinance is the minimum requirement for promoting the public health, safety and general welfare. If it imposes more restrictions than Federal requirements, state law, or other NRAA Rules, Regulations, or Policies, 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, ordinances, rules, regulations, or policies have stricter regulations, the provisions of the statute, ordinance, rules, regulation, or policy shall govern.

900.5 NRAA BUILDINGS & GROUNDS COMMITTEE

A. The NRAA Buildings & Grounds Committee shall be responsible for reviewing all Aeronautical Activity and Aviation-Related Activity at the Airport pursuant to the NRAA's~~is~~ Ordinances and the NRAA's Minimum Standards.

900.6 GOVERNANCE OF AERONAUTICAL ACTIVITY AND AVIATION-RELATED ACTIVITY

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A. All Aeronautical Activity and Aviation-Related Activity shall be permitted as of right on the Airport subject to regulation only insofar as such regulations are consistent with the Airport's obligations under the Grant Assurances and 14 CFR Part 139.

900.7 ROLE OF NRAA ZONING BOARD

A. Adoption of Zoning Ordinance. Following a public hearing, the Zoning Board shall recommend the initial adoption or any amendments to an ordinance regulating land development on the Airport to the Authority.
   1) Notice of Hearing.
      a) Initial Adoption. The public hearing for the initial adoption of the ordinance shall be held following notice published in the official newspaper of the Authority and notice to each of the Airport's aeronautical tenants and it shall be posted at the Authority's office not less than 15 days before the date of the hearing.
      b) Amendment to Zoning Ordinance. The Zoning Board may on its motion, at the request of the Authority, or any interested person hold a public hearing on any amendment or repeal of the Zoning Ordinance. Notice of the public hearing shall be as follows. The public hearing for any amendment of the Zoning Ordinance shall be held following notice published in the official newspaper of the Authority, on its website, and notice to each of the Airport's aeronautical tenants and non-aeronautical tenants and it shall be posted at the Authority's office not less than 15 days before the date of the hearing.
      c) Notice. The notice shall contain the following:
         i) A description of the proposed zoning;
         ii) A description of the subject property affected;
         iii) The time and place of the public hearing; and
         iv) When and where written comments will be received.

B. Review of Proposed Non-Aeronautical and Non-Aviation Related Activity as set forth in this Chapter 900.

900.8 ADMINISTRATION, ENFORCEMENT, AND PENALTIES

A. Land Use and Construction Permits Required. A land use and construction permit are required in the following circumstances:
   1) Before a building or structure is built, rebuilt, converted, enlarged, demolished or structurally altered when such activity requires a building permit.
   ~~2) Before land clearing (as defined in this Code).~~
   ~~3)~~2) Before a parking area is constructed, reconstructed or enlarged.

B. ~~Foundation only approval prohibited. In no case shall a land use permit be issued for the construction of foundations only~~The Zoning Administrator may allow construction of only site plan elements with a conditional construction permit, provided the lease, financial guarantees, and other items required at the discretion of the Zoning Administrator are completed. A construction ~~building~~ permit for the construction of a structure or building shall be obtained within 30 calendar days from the date of the conditional construction permit.

C. Application forms. The Zoning Administrator shall have application forms for permits available at the Administrative Offices of the NRAA. (https://tvcairport.com/planning-and-zoning/)

D. Site plans. All permit applications shall be accompanied by an accurate site plan or diagram complying with the requirements of this Zoning Ordinance.

E. Survey. When requested by the Zoning Administrator all dimensions shown on the site plan relating to the locations and size of the lot shall be based on an actual survey and the lot shall be staked out on the ground before construction is started. Data shall be provided in the format required by the Zoning Administrator.

F. Records. The original copy of such applications and site plans shall be kept by the Zoning Administrator and a copy shall be always kept at the site during construction.

G. Fees. Permit application fees shall be established by resolution of the NRAA or as set forth in the Minimum Standards. If the Zoning Administrator determines that the basic fees will not cover the actual costs of the application review or appeal, or if the Zoning Administrator determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the NRAA Chief Financial Officer such additional zoning fees in an amount determined by the Zoning Administrator equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the NRAA in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

H. Expiration of permit. Unless the permit states differently, a permit expires after 24 months from the date of granting such permit if the activity is not at least 75 percent completed, and after 36 months if not 100 percent completed. Completion percentages shall be determined in the sole discretion of the Zoning Administrator, subject to appeal to the NRAA Zoning Board.

I. Extension of permit. A request for permit extension must be submitted to the NRAA Zoning Administrator at least 3 months prior to expiration. Request shall include justification and revised completion schedule. If approved by the Zoning Administrator, additional fees and escrow funds may be a condition of approval.

J. Revocation. The Zoning Administrator may revoke permit for failure to comply with any provisions of this Zoning Ordinance or other ordinance, rules, regulation or standard of the

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NRAA, the FAA, or the Michigan Department of Aeronautics, the application or permit or for a material error, false statement or misrepresentation made in the application. The Developer or Developer's agent shall be notified of such revocation in writing. Upon such revocation, all further construction activities and new use of the site shall cease, other than for the purpose of correcting the violation. The Zoning Administrator may suspend any land use permit if there are reasonable grounds for revocation and may issue a stop work order to halt all construction activities and land use pending a decision on revoking the permit.

K. Improvement Guarantees. To ensure compliance with Ordinance and any condition imposed hereunder, the Zoning Administrator or the Zoning Board may require that a guarantee covering the estimated cost of improvements associated with a project for which zoning approval is sought be deposited with the Chief Financial Officer of the NRAA to ensure faithful completion of the improvements. As used in this section:
   1) Guarantee or improvement guarantee means a cash deposit, certified check, irrevocable bank letter of credit or surety bond in such form as determined by General Counsel of the Airport.
   2) Improvements means those features and actions associated with a project, that are considered necessary by the body or official granting land development approval to protect natural resources or the health, safety and welfare of the Airport, its customers, tenants, and licensees, including roadways, lighting, utilities, sidewalks, parking, screening and drainage.
   3) Deposit. The guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project.
   4) Rebate. The Zoning Administrator shall establish written procedures under which a cash deposit, in reasonable proportion to the ratio of work completed on the required improvements, is rebated as work progresses. Such procedures shall be on file in the office of the Zoning Administrator. The Zoning Administrator may amend such procedures, but such amendments shall not affect any guarantee previously deposited with the Chief Financial Officer, except upon mutual agreement of the Zoning Administrator, the person obtaining the permit to which the guarantee applies and the person making the guarantee.

K. Certificates of occupancy.
   1) Required. In addition to any Certificates of Occupancy issued by ~~AHJs~~Authorities Having Jurisdiction, a Certificate~~s~~ of ~~o~~Occupancy issued by the NRAA shall be required for any of the following:
      a) Occupancy and use of a new building or of a structurally altered building;
      b) Change in the use of an existing building to a use of a different zoning classification;
      c) Occupancy and use of vacant land;
      d) Change in the use of land to a use of a different zoning classification; and
      e) Change in the use of a nonconforming use.
   2) No such occupancy, use or change of use shall take place until a certificate of occupancy therefore has been issued.
   3) Temporary certificates. Pending the issuance of a final certificate, a temporary certificate of occupancy may be issued by the Zoning Administrator. Temporary certificates shall be effective no more than 6 months during the completion of construction or alterations. A temporary certificate shall not be construed as altering

the respective rights, duties or obligations of the owner or the NRAA relating to the use or occupancy of the premises or any other matter covered by this Zoning Ordinance. Temporary certificates shall not be issued except under such restrictions and provisions as will adequately ensure the safety of occupants. If a temporary certificate expires and a final certificate is not issued, the building or land shall not be occupied.

4) Final certificates. Final certificates of occupancy shall be issued if there has been compliance with all provisions of this Zoning Ordinance and all other applicable rules, regulations or standards of the NRAA and any lease or other occupancy requirements. A certificate of occupancy shall state that the building or the proposed use of the building or land complies with this Zoning Ordinance A record of all certificates shall be kept on file.

L. Administrator.
   1) The administration and enforcement of this Zoning Ordinance shall be the responsibility of the Zoning Administrator.
   2) Appearance tickets. The Zoning Administrator or such other officials as are designated by the Chief Executive Officer, are hereby authorized to issue and serve appearance tickets with respect to a violation of this Zoning Ordinance pursuant to MCL 259.143(1)(~~l~~f). Appearance tickets shall be in such form as determined by ~~the~~ General Counsel and shall be in conformity with all statutory requirements.

M. Municipal Civil Infraction. A person who violates any provision of the Zoning Ordinance is responsible for a municipal civil infraction.

N. Declaration of nuisances.
   1) Buildings and structures built, altered, razed or converted, or uses carried on, in violation of this Zoning Ordinance or the Airport Zoning Act, MCL 259.431 et seq, are hereby declared to be a nuisance per se.
   2) Any court of competent jurisdiction may order such nuisance abated, and the owner or agent in charge of the building or land may be adjudged guilty of maintaining a nuisance per se.
   3) A person may not assert that a use is a nonconforming use or vested right, by way of defense to any Ordinance enforcement action or otherwise until that person has exhausted all administrative remedies for determination of a non-conforming use.

O. Penalty.
   1) Whoever violates or fails to comply with any of the provisions of this Zoning Ordinance shall be subject to the civil infraction sanctions, injunctive relief, nuisance abatement, surcharges and equitable remedies as provided in the Codified Ordinances of the NRAA or as otherwise available under the law, as well as any damages resulting from such violation.
   2) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

900.9 Reserved

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900.11 Variance, Appeals & Interpretations

A. The Zoning Board of Appeals shall be comprised of three (3) NRAA members that are not members of the Zoning Board, as well as the Zoning Administrator ex officio and without voting authority as Recording Secretary.

B. Meetings of the Zoning Board Appeals shall be held at the call of the Chairperson and at such other times as the Board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public. The Board shall adopt its own rules of procedure and shall keep a public record of its proceedings showing the action of the Board and the vote of each member upon each question considered. The presence of two (2) members shall be necessary to constitute a quorum and a majority vote of the members of the entire Board shall be necessary to reverse an order, requirement, decision or determination of an administrative official or to decide in favor of the applicant in the case of a variance, exception or interpretation.

C. Powers and duties.
   1) Generally. The Zoning Board of Appeals shall not have the power to alter or change the terms or intent of this Zoning Ordinance. The Zoning Board of Appeals shall have the power to act on those matters where this Zoning Ordinance provides for an appeal, interpretation, variance or exception. The Board shall not have the power to vary a standard for a Special Land Use Permit.
   2) Appeals. The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, decision or determination made by the Zoning Administrator or the NRAA Zoning Board with the enforcement of this Zoning Code.
   3) Interpretations. Upon application by an Airport officer, agent or employee or person interested in a specific affected parcel of land, when other administrative appeals have been exhausted, the Board shall have the power to:
      a) Interpret this Zoning Ordinance in such a way as to carry out its intent and purpose;
      b) Determine the precise location of special area boundaries;
      c) Classify a use which is not specifically mentioned, determine the district within which the use is permitted and determine the necessary parking to support the use; and

D. Variances. The Zoning Board of Appeals shall have the power to authorize specific variances or departures from this Zoning Ordinance, if all the basic conditions are satisfied, and if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning Ordinance. A variance from the dimensional requirements of this Zoning Ordinance may only be granted if it is determined that all basic conditions have been satisfied and that there is a practical difficulty in carrying out the requirement. No variance from the use requirements of this Zoning Ordinance may be granted.
   1) Basic conditions. Any variance granted from this Zoning Ordinance shall meet the following basic conditions:
      a) The spirit of this Zoning Code shall be observed, public safety secured, and substantial justice done.
      b) The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.

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c) The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general area in which the property is located and shall apply only to property that is under the control of the applicant.
d) There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.
e) The alleged hardship or difficulty is not solely economic and is based on the reasonable use of a particular parcel of land.
f) It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privity or concert with the applicant.

2) Practical difficulties and unnecessary hardships. In order to determine if there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Zoning Ordinance the following shall apply:
a) Dimensional variance. A practical difficulty shall exist where there are exceptional or extraordinary circumstances or physical conditions, such as narrowness, shallowness, shape or topography of the property involved, that do not generally apply to other property or uses in the same area.

E. Court review.
1) Circuit court review. A decision of the Board shall be final. However, any party having a substantial interest affected by an order, determination or decision of the Board may appeal to the Circuit Court if made to the Court within 30 days after Board certifies its decision in writing signed by the Chairperson or within 21 days after the Board approves the minutes of its decision, or upon grant by the Court of leave to appeal.
2) Standards for review. The Circuit Court shall review the record and decision of the Board of Zoning Appeals to insure that the decision:
a) Complies with the constitution and the laws of the state;
b) Is based upon proper procedure;
c) Is supported by competent, material, and substantial evidence on the record;
d) Represents the reasonable exercise of discretion granted by law to the Board.
3) Inadequate record. If the Court finds the record of the Board inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Board, the Court shall order further proceedings before the Board on conditions which the Court considered proper. The Board may modify its findings and decision as a result of the new proceedings or may affirm its original decision. The supplementary record and decision shall be filed with the Court. The Court may affirm, reverse, or modify the decision.

900.12 Non-Aeronautical Use Districts

A. Purpose. The purpose of the Non-Aeronautical Use Districts is to encourage a use or mix of uses compatible with the use and operation of the development of Cherry Capital Airport that are consistent with the current and intended character and existing development patterns adjacent to the districts. Site plan information shall be submitted to the NRAA Zoning Administrator in accordance with the Land Use Permit requirements establish by the Zoning Administrator and Section 900.22.

B. Uses Allowed

1) Amusement and recreation services (indoor only)
2) Automobile gasoline/convenience stores
3) Automobile, motorcycle, trailer, recreational vehicle or boat showrooms or repair
4) Brew pubs
5) Business services
6) Construction, special trades
7) Contractors
8) Drugstore
9) Electrical, combination electric and gas and other utility services,
10) Engineering, accounting, research, management and related services
11) Equipment rental and leasing, miscellaneous
12) Essential services and essential services with buildings
13) Finance, insurance and real estate services
14) Finance services
15) Fuel dealers
16) Government administration
17) Hardware stores
18) Indoor fruit and vegetable markets
19) Laundromats
20) Legal services
21) Lodging facilities
22) Manufacturing
23) Microbrewery
24) Motorized vehicle dealers, mobile home dealers, watercraft dealers and recreational vehicle dealers subject to the following conditions:
    a) All outdoor display and storage in front or on the side of a building shall meet landscape requirements for parking areas.
    b) Outdoor display areas shall be differentiated from parking areas using contrasting surface material and shall be designated on a site plan.
    c) Any display platforms shall not be elevated more than three feet higher than the adjacent public right of way.
25) National security and international affairs
26) Parcel packing services
27) Parking structure
28) Passenger transportation services
29) Personal services
30) Pet grooming services without outdoor runs or kennels
31) Repair services
32) Restaurants
33) Retail use of 10,000 square feet or more
34) Security services
35) Services stations and repair stations
36) Theaters, indoor only
37) Transportation service
38) United States Postal Service
39) Vehicle wash facilities

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40) Veterinary Services, without outdoor runs

900.13 Special Use District

A. Purpose. The Special Use District is intended to encourage a use or mix of uses compatible with the use and operation of the Cherry Capital Airport and the existing development(s) within the special use district as well as provide a transitional buffer between the Airport and nearby residential districts.

B. Permit Required. Any ~~n~~Non-A~~a~~eronautical U~~u~~se Activity ~~development~~ proposed adjacent to the George Street Neighborhood shall require a special use permit.

C. Procedure. Proposed uses within the Special Use District are reviewed and approved through an NRAA Board Procedure. The following procedures shall be followed for special land use permits to be granted by the NRAA:

1) Pre-application conference. Before submitting an application, the applicant shall meet with the NRAA Zoning Administrator to review the proposed project, the NRAA Zoning Ordinance, and any planning documents that relate to the property.
2) Application. A special land use permit application shall be submitted to the NRAA Zoning Board for review and recommendation.
3) Public hearings.
   a) The Zoning Board shall hold a public hearing with such notice as it deems advisable. After review, the Zoning Board shall submit a written recommendation to the NRAA Board based upon the standards of this Zoning Ordinance.
   b) A public hearing may be held by the NRAA Board on each special land use application properly filed under this Zoning Ordinance. Notice of the public hearing shall be given not less than 15 days before the date of the public hearing. Notice shall be published on the NRAA's website and in a newspaper of general circulation in Grand Traverse County and shall be mailed or personally delivered to:
      i) The owners of the property for which approval is being considered;
      ii) All persons to whom real property is assessed within 300 feet of the boundary of the property in question; and
      iii) At least 1 occupant of each dwelling unit or spatial area owned or leased by different persons within 300 feet of the boundary of the property in question. Where a single structure contains more than 4 dwelling units or other distinct 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 of the structure. Where the name of the occupant is not known, 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.
      iv) Notice. The notice of the NRAA Board public hearing shall contain:
         a. A description of the nature of the special land use request;
         b. A description of the property which is the subject of the special land use request, including a listing of all existing street addresses within the property where they exist; and

c. The time and place of consideration of and public hearing on the special land use request; and
d. When and where written comments will be received concerning the request.

4) Decision. The NRAA Board may deny, approve or approve with conditions requests for special land use approval after a hearing and notification as provided herein. Its decision shall be in the form of an order which shall incorporate a statement of conclusions and shall specify the basis for the decision and any conditions imposed. An order denying a special land use shall state the standards which have not been met. A decision of the NRAA Board shall be final.
5) Order. If the NRAA Board determines that the application is consistent with the intent of this Zoning Ordinance as expressed in this chapter and with the other standards and requirements herein contained, it shall issue an order authorizing the special land use in accordance with the application and material submitted, modified as it may consider necessary to carry out the intent and standards of this Zoning Ordinance, and containing any lawful conditions or restrictions which it may consider necessary to carry out the purposes of this Zoning Ordinance and to protect the public health, safety and welfare. The order shall recite the findings of fact and the reasons upon which it is based.
6) Compliance. After approval of a special land use, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the special land use or only as authorized by the provisions of this Zoning Ordinance which would apply if the special land use order had not been issued.

D. Standards. Each application for a special land use shall be reviewed for the purpose of determining that the proposed use meets all of the following standards:
1) The use shall be designed, constructed, operated and maintained so as to be harmonious and compatible in appearance with the intended character of vicinity.
2) The use shall not be hazardous nor disturbing to existing or planned uses in the vicinity.
3) The use shall be served adequately by existing or proposed public infrastructure and services, including but not limited to, streets and highways, police and fire protection, refuse disposal; water, wastewater, and storm sewer facilities; electrical service, and schools.
4) The use shall not create excessive additional requirements for infrastructure, facilities, and services provided at Airport expense.
5) The use shall not involve any activities, processes, materials, equipment or conditions of operation that would be detrimental to any person or property or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors or water runoff.
6) Design elements shall relate the design characteristics of an individual structure or development to existing or planned developments on the Airport in a harmonious manner, resulting in a coherent overall development pattern and streetscape.
7) The use shall be consistent with the intent and purposes of the Special Use District.

E. Uses Allowed
1) Brew pubs (as defined by Michigan Liquor Control Code)
2) Business services
3) Drugstore
4) Electrical, combination electric and gas and other utility services,

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5) Engineering, accounting, research, management and related services
6) Essential services and essential services with buildings
7) Finance, insurance and real estate services
8) Finance services
9) Government administration
10) Hardware stores
11) Indoor fruit and vegetable markets
12) Laundromats without dry-cleaning services.
13) Legal services
14) Lodging facilities
15) Manufacturing
16) Microbrewery
17) National security and international affairs
18) Parcel packing services
19) Passenger transportation services
20) Personal services
21) Pet grooming services without outdoor runs or kennels
22) Repair services
23) Restaurants
24) Retail Uses other than second-hand or thrift stores or flea markets
25) Security services
26) Theaters, indoor only
27) Transportation service
28) United States Postal Service
29) Veterinary Services, without outdoor runs

F. Additional Setback and Buffer Requirements
    1) All development shall be a minimum of 40' from residential uses and shall require a privacy barrier (4.5' tall decorative masonry wall or opaque fence with 6' tall evergreen plantings) in a manner acceptable to the Zoning Administrator.

G. Access shall be to\from Judson Street.

H. Sidewalks shall be a minimum of 5' wide and meet ADA standards, as required.

I. Signs: One (1) permanent ground mounted sign shall be permitted per parcel or series of parcels under one ownership. All such signs shall be a maximum of 6' in height and 36 square feet in surface display area. Digital or changing message signs are specifically excluded. All illuminated signage shall be externally lighted with fixtures oriented to direct light downwards and only onto the sign face.

900.14 Non-Conforming Uses

A. Classifications. There shall be the following classes of nonconforming uses:
    1) Class 1. Those where the use of the building or land does not conform to the District use regulations; and constitutes a hazard to aviation or any object, structure, or use not in compliance with FAA Part 77 and\or the FAA 7460 process.

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2) Class 2. Those where the use of the building or land does comply with the District use regulations, but such use does not meet the dimensional or parking regulations of this Code.
3) Class 3. Those where the use of the building or land was a use as of right or a legal non-conforming use, but is later allowed only by a special land use permit in the District in which located.

B. General regulations.

1) All residential uses existing on the effective date of this Chapter are Class 1 non-conforming uses.
2) All marijuana facility related uses existing on the effective date of this Chapter are Class 1 non-conforming uses.
3) Enlargement or structural alterations. Nonconforming uses of property shall be subject to the following regulations:
   a) A Class 1 nonconforming use shall not be enlarged or structurally altered when such alteration requires a building permit, nor shall they be expanded or increased in intensity of use, unless the Zoning Administrator grants an exception as described in this Zoning Ordinance.
   b) A Class 2 nonconforming use shall not be enlarged or structurally altered when such alteration requires a building permit, unless the resultant building creates no further violation of this Zoning Ordinance than lawfully existed at the time of the enlargement or alteration. However, upon approval of the Zoning Administrator, a Class 2 nonconforming use may be expanded to add floor space above the first floor level to the extent of the first floor encroachment, and a porch or other architectural feature which once existed and encroached in the required setback may be reconstructed, subject to the following conditions:
      i) Prior to the issuance of a building permit, the building plans for the addition shall be approved by the Zoning Administrator, who will consider the relationship of the addition with the scale, materials and architectural style of the existing structure.
      ii) The addition shall not substantially degrade the light and air available to the neighboring properties.
      iii) The addition shall not include or utilize window or wall air conditioning units or other appliances or devices which may unnecessarily disturb neighbors due to their proximity to adjacent structures.
      iv) Ice, snow and stormwater from the addition shall be maintained within the boundaries of the subject property and shall not present a safety hazard to residents, guests or neighbors.
   c) A Class 3 nonconforming use shall not be enlarged or structurally altered without first obtaining a special land use permit for the existing use and the alteration, if enlargement or alteration would result in any of the following:
      i) An increase or decrease in the square footage of the building by more than 10 percent,
      ii) Introduction of a new use on the site which is anticipated to increase daily motor vehicle trip-ends,
      iii) Addition of a separate building or structure occupied on a regular basis,

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iv) Addition or deletion of parking spaces, or significant alteration of traffic patterns adjacent to the site.

d) Any building or structure built, rebuilt, converted, enlarged, moved or structurally altered shall be used only for a use allowed in the district in which the building or structure is located.

e) Change of use. A Class 1 nonconforming use shall not be changed to other than a permitted use unless the Zoning Administrator grants an exception as described earlier in this Zoning Code.

f) Prior construction approval. Nothing in this Zoning Ordinance shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been properly issued and substantial construction commenced prior to the effective date of this Zoning Ordinance, provided that the entire building shall have been completed according to plans filed with the permit application within 1 year after the issuance of the building permit.

g) Nonconforming land uses. The nonconforming uses of land, where no building is located, may be continued, provided that the nonconforming land use shall not in any way be expanded or extended either on the same property or adjoining property.

h) Nonconforming use certificate. A nonconforming use certificate may be issued by the Zoning Administrator for a nonconforming use. The certificate shall specify the nature of the nonconformity and such other pertinent matters as may be deemed appropriate by the Zoning Administrator. Upon application for a nonconforming use certificate by all owners of record of the land in question, the Zoning Administrator shall issue or deny such certificate within 30 days or such greater time as may be mutually agreed upon. The application shall be in writing upon a form prepared by the Zoning Administrator and shall be accompanied by such information as the applicant deems pertinent or as the Zoning Administrator may request. An applicant may appeal the denial of a certificate to the Zoning Administrator. This administrative remedy shall be exhausted before a person alleges the existence of a nonconforming use by defense to a zoning enforcement action or otherwise.

C. Loss of nonconforming use status.

1) Loss. Status as a nonconforming use shall be lost and the nonconformity shall be deemed a violation of this Zoning Ordinance if any of the following occur:

a) Increasing the non-conformity. Unless otherwise allowed or except where permitted by the Zoning Administrator, expansion or change of the use or structure in such a way so as to increase the size, degree or intensity of the nonconformity.

b) Zoning violation. Except for the initial nonconformity, any violation of the Zoning Ordinance.

c) Abandonment of the use. Intent to abandon a nonconforming use may be presumed where the use ceases for more than a year and the owner has not expressed in writing an intent to maintain the use within 30 days after being requested in writing to do so. If nonconforming use status is lost, all future use shall be in conformity with this Zoning Ordinance and the initial nonconforming use may not be continued or re-established.

d) Reduction. If a nonconforming use or structure is reduced or changed in such a way so as to decrease the size, degree or intensity of the nonconformity, the use or

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structure may not thereafter be expanded or changed to cause an increase in the nonconformity.

D. Illegal uses. Nonconforming uses of buildings or land established without a required building permit or land use permit, or those nonconforming uses which cannot be proven conclusively as existing prior to the effective date of the section upon which the nonconformity is based, are declared illegal uses and shall be discontinued.

E. District boundary changes. Whenever the boundaries of a District are changed so as to transfer an area from 1 District to another District of another classification, this Section shall also apply to any existing uses or structures that become nonconforming as a result of the boundary changes.

F. Elimination. The NRAA may acquire properties on which nonconforming uses or structures are located, by condemnation or other means, and may remove such uses and structures. The resultant property may be leased or sold for a conforming use or may be used for a public use.

G. Abandonment. Any properties abandoned by a developer may be required to be removed by the developer.

900.15 Existing Infrastructure

A. If new development is permitted by the NRAA, any costs to remove or relocate existing infrastructure shall be borne by the ~~developer~~person(s) proposing the development.

900.16 Severability

A. Any provision or part of the Ordinance held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding. NRAA reserves the right to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

900.17 Reserved
900.18 Reserved
900.19 Reserved
900.20 Reserved
900.21 Reserved

900.22 NRAA Development Standards

A. Authorities Having Jurisdiction. The NRAA has the land use authority for the parcels within its property. However, the following entities also have jurisdiction with respect to the specific development items noted:
    1) City of Traverse City

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a) Soil Erosion & Sedimentation Control: All development shall follow NPDES, EGLE, and All development shall meet the minim requirements identified in the Traverse City Code Chapter 1068.04.
b) Stormwater: All development shall meet the minim requirements identified in the Traverse City Code Chapter 1068.05. Supplemental requirements are identified by the NRAA in Section 900.21.C.7.
c) Fire Protection: All development shall meet the requirements of Traverse City Code Chapter 1610.

2) Grand Traverse County
a) All development shall be in accordance with Grand Traverse County Construction Code Enforcing Agency Ordinance, Ordinance No. 4. This includes, but is not limited to: demolition, electrical, HVAC, building, and special inspections.

B. NRAA will be provided copies of permits, prior to issuance of a construction permit, as required by the Zoning Administrator.

C. Requirements to fulfill Federal Obligations
1) NEPA Clearance: As a federally obligated airport under FAA Airport Improvement Grants, the NRAA is required to obtain National Environmental Policy Act procedures for applicable projects. Qualifying projects will require the necessary FAA environmental approval before a construction permit is issued.
2) Safety & Security:
a) Construction Safety Phasing Plan: As a federally obligated airport under CFR Part 139 and CFR Part 1542, all development is subject to requirements defined under these sections and administered by the NRAA to operate the airport. A Construction Safety Phasing Plan shall be provided, as required by the Zoning Administrator, and as accepted by the NRAA. Guidance can be found under FAA ARP SOP 1.0.
b) Fencing & Gates
i) Any proposed fencing additions or modifications must be reviewed and approved by NRAA prior to installation, changes, or any replacement perimeter security fence.
ii) The contractor must not cut, remove or replace any perimeter fence without prior written approval from NRAA.
3) AOA Access: As a federally obligated airport under CFR Part 1542, access to the Airport Operations Area (AOA) shall only be provided to authorized badge holders, or an approved escort, in accordance with the NRAA's rules and regulations found in Chapter 700.

D. Site Requirements
1) Master site and facilities plan. When applying for a land use permit, the applicant shall present a Master Site and Facilities Plan for the current uses on all contiguous property to be leased and all anticipated uses within a minimum of the next 5 years. This plan shall show adjacent properties sufficiently to identify surrounding uses and potential impacts on them by the applicant's plan and shall conform to the requirements of the NRAA.
2) Unless determined by other FAA and/or NRAA requirements, setbacks shall generally be:
a) Front: 30' minimum

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b) Side: 10’ minimum
c) Rear: 10’ minimum

3) Building and Appurtenance Heights: All buildings and appurtenances shall be constructed below the FAA Part 77 surfaces defined for the Cherry Capital Airport. These surfaces are subject to determination by the FAA and the NRAA. All on airport development must receive an approved FAA 7460 non-hazard determination prior to construction.
4) Lighting:
   a) Photometric design of the site shall meet the requirements of the Illuminating Engineering Society (IES) RP-8-21, or the subsequent IES standard as approved by the Zoning Administrator.
   b) No up-light from any fixtures shall be permitted (full cut-off above the horizontal plane).
   c) Light color temperature shall be 3000K, and up to 4000K, as approved by the Zoning Administrator.
   d) When a site is closed for operation, lights shall be dimmed to 50% of their design output.
   e) Laser source lighting is prohibited.
   f) Maximum lighting levels adjoining City of Traverse City Boundaries shall be no more than 0.2 footcandles.
   g) Maximum lighting levels adjoining East Bay Township Boundaries shall be no more than 1 footcandle.
   h) Maximum lighting levels adjoining Garfield Township Boundaries shall be in accordance with Section 517 Table 5-8.
   i) The Zoning Administrator may require a glare study to be conducted to the satisfaction of the FAA and/or NRAA.
5) Noise restrictions shall not be placed on aeronautical uses except for those established by the FAA.
6) Parking
   a) One (1) space per employee and:
      i) Hotel\motel: one (1) space per hotel room or 80% capacity, as approved by the Zoning Administrator
      ii) Industrial: an additional 5 spaces
      iii) Professional: one (1) for every 200 square feet of floor area.
      iv) Restaurant: one (1) for every 75 square feet of floor area.
      v) Retail: one (1) for every 300 square feet of floor area.
   b) Parking stall minimums: 8.5’ wide, 20’ long, and 20’ wide maneuvering.
   c) All ADA accessible parking is in addition to these requirements.
   d) All parking areas shall incorporate a landscaping plan acceptable to the NRAA.
   e) One way loops for parking may be constructed as allowed by the Zoning Administrator.
7) Additional Drainage Requirements
   a) A development shall be evaluated for storm water surcharge elevations associated with back-to-back 100-year storms, as required by the Zoning Administrator.
8) Landscaping
   a) A development shall utilize grass and vegetation to meet pervious cover requirements.
   b) All landscaping elements shall not create an aviation hazard.

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c) Zoning Administrator will maintain a list of acceptable vegetation. Additional vegetation types may be approved by the Zoning Administrator with USDA concurrence.
    i) Lawn grasses shall be fescue, or as approved by the Zoning Administrator. Kentucky Blue Grass shall not be permitted.
    ii) Developments shall install and maintain tree heights that shall remain under the Part 77 surface defined by the Airport.
    iii) Developments may obtain approval to install trees with a mature height of more than 30' with Zoning Administrator approval, provided that the Zoning Administrator determines the tree will not create an obstruction to aviation or an Airport hazard.

E. Utilities
1) Developer is responsible for locating all existing utilities and necessary improvements.
2) Water: Service is provided by the City of Traverse City, and shall be constructed in accordance with City standards. Construction shall be coordinated and permitted accordingly.
3) Sanitary Sewer: Service is provided by the City of Traverse City, and shall be constructed in accordance with City standards. Construction shall be coordinated and permitted accordingly.
4) Electric Service: Service is provided by Traverse City Light and Power or Cherryland Electric, depending on location. Construction shall be coordinated and permitted accordingly.
5) Gas: Service is provided by DTE energy.
6) Airport and FAA: Depending on the location, the airport and FAA may have underground infrastructure within a development area. Developer is responsible for obtaining written verification of FAA and airport infrastructure locations to be protected.

F. Architectural Requirements
1) General
    a) Buildings and any permanent development on the leased premise must be of a high-quality standard of appearance, function, durability, material, and maintenance.
    b) NRAA requires site and building design and finishes to compliment and cohere in appearance and construction to adjacent properties and generally meet the site aesthetics, airport environment, local market and community considerations.
    c) Any finishes that create glare are prohibited.
    d) NRAA reserves the right to specify certain exterior finishes on newly constructed buildings upon review and/or disapprove exterior design, materials and finishes which detract from the overall airport area aesthetic.
2) ~~The p~~Prior to construction, the exterior finishes of all buildings:
    a) must be approved by the NRAA Buildings and Grounds Committee
    b) may be required to be submitted to FAA for airspace review and approval, as identified by the Zoning Administrator.

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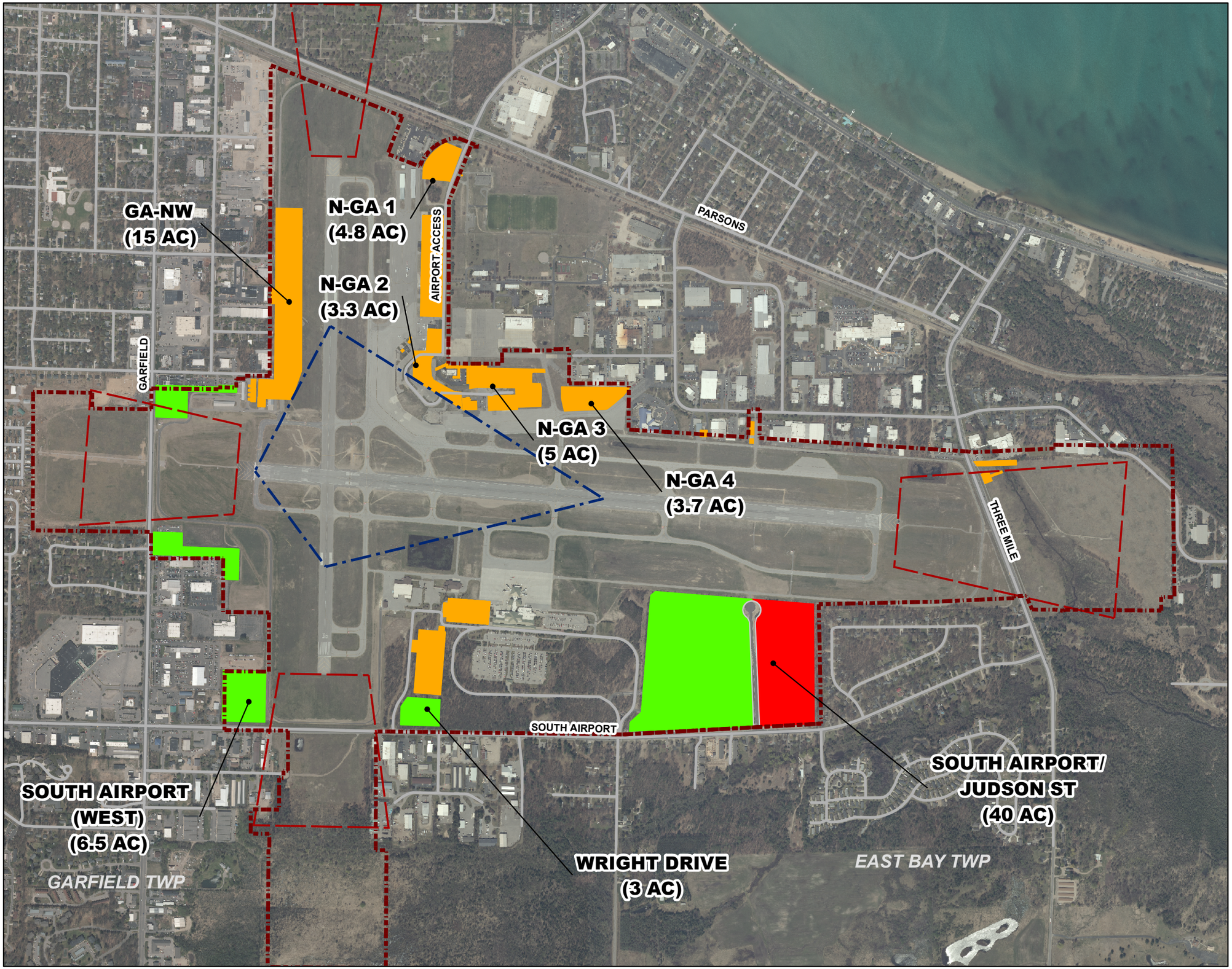

Feet
0 400 800 1,600

LEGEND

- RVZ
- RPZ
- TVC PROPERTY
- AERONAUTICAL USE ONLY
- AERONAUTICAL OR NON-AERONAUTICAL USE
- SPECIAL USE

Traverse City, MI
Cherry Capital Airport - TVC

CHERRY CAPITAL AIRPORT
GRAND TRAVERSE COUNTY

EXHIBIT 1:
LAND USES

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Prein&Newhof