

**CITY COUNCIL
CITY OF GRAND HAVEN
OTTAWA COUNTY, MICHIGAN**

Council Member Scott, supported by Council Member Fritz, moved the adoption of the following Ordinance:

ORDINANCE NO. 18-06

**AN ORDINANCE TO ADD NEW SECTIONS 40-423 THROUGH 40-423.03 OF THE
GRAND HAVEN ZONING ORDINANCE TO ESTABLISH A BEACH OVERLAY
DISTRICT**

The City of Grand Haven Ordains:

Section 1. Additions. New Sections 40-423 through 40-423.03 are added to the Grand Haven Zoning Ordinance to read as follows:

40-423. - Beach Overlay District

40-423.01 Intent. The Beach Overlay District (B-OD) is an overlay district intended to prevent damage to private property along the shore of Lake Michigan, to prevent damage to public trust shorelands, and to preserve the character of those public trust shorelands, which constitute a valuable public resource and an important part of the identity of the community.

The city finds that during periods of low Lake Michigan water levels, sand accretion in this district tends to significantly enlarge the beach and to enlarge affected parcels in this district. This additional land area can be seen by property owners as permanent and attractive for development. The character of the shorelands along this portion of the Lake Michigan shoreline, as well as viewsheds along the shoreline from public parks in this district can be compromised by development in immediate proximity to the water's edge.

The city further finds that the beach and property area near the shoreline is subject to submergence and erosion during periods of higher Lake Michigan water levels and resulting from severe weather conditions. It has been demonstrated that current state and federal development standards for the Lake Michigan shoreline, such as those imposed based on the Ordinary High Water Mark (OHWM) and the Base Flood Elevation, do not ensure that property shoreward of those locations is protected from erosion, inundation, or damage during such periods of time and/or weather events. The OHWM is not intended to reflect these periods of peril, and the Base Flood Elevation is the still-water elevation that does not take into account the effect of wave action. The city further understands that revised federal floodplain regulations are being developed to take into account additional environmental factors such as waves and to provide an improved standard of floodplain development protection, but implementation of these regulations will not likely occur for several years.

When erosion threatens a structure legally built near the shoreline, owners may wish to construct a seawall or implement similar shore protection measures. Such actions may pose an increased threat of erosion and damage to adjacent private properties and to public trust shorelands more broadly, and may significantly diminish the character of those public trust shorelands.

Given the physical, environmental and developmental characteristics of the B-OD, including generally large lots that need not be developed near the water's edge to be economically viable, and given that the area generally benefits from accretion, the City believes that construction of seawalls and similar structures in this area can be detrimental to the public health, safety, and welfare. This finding is supported by the 2017 City of Grand Haven, Building Coastal Resiliency Report developed by the University of Michigan, a copy of which is on file with the city.

The city believes the most appropriate, effective, and reasonable method to further the public interests of protecting natural resources, preserving the economic and environmental well-being of the community, protecting the health, safety and general welfare of the community, and promoting the general preservation or enhancement of property values along Lake Michigan is to restrict the

construction of structures so near the water's edge as to: (1) be susceptible to damage resulting from inundation or erosion; or (2) create an increased threat of erosion or damage on adjacent properties; (3) be detrimental to the spirit and character of the public trust property; (4) be detrimental to vistas from neighboring public parks; or (5) be potentially built in a location that will render the structure non-conforming under the future federal floodplain protection regulations currently under development.

These regulations are intended to prevent the construction of structures and implementation of other measures that would have deleterious effects on neighboring private properties and on public trust shorelands more broadly, to preserve the character of public trust shorelands along the Lake Michigan shoreline, and to protect vistas from neighboring public parks.

These regulations are supported by the Master Plan.

40-423.02 Description of District. The B-OD, as it appears on the city's official zoning map mylar and Beach Overlay District map, is an overlay district covering certain land along Lake Michigan. It specifically includes all lands situated lakeward of a line sequentially connecting the following points as well as the distance and bearing of each line segment, described by Michigan State Plan Grid Coordinates, South Zone, Grid NAD 83 international feet. This line, which does not track existing lot lines, is defined by the sum of two measurements: (1) the line commonly referred to as the Elevation Contour, which represents the 50-year flood elevation (583.7 feet) in 1992, as established by the State of Michigan for the purpose of identifying shorelands at risk of inundation and high-energy waves during a relatively high-probability storm event, plus the 60-year projected recession distance (115 feet), as established by the State of Michigan for High Risk Erosion Areas.

Point	Northing	Easting
A	579225.99	12619765.36
B	579049.41	12619790.83
C	578679.58	12619871.22
D	578267.11	12619936.88
E	577896.31	12619976.95
F	577229.62	12620047.64
G	576590.75	12620053.34
H	575792.14	12620032.51
I	575154.57	12619982.43
J	574544.89	12619889.28
K	573875.48	12619803.34
L	573646.32	12619886.67
M	573279.97	12620122.56
N	572952.10	12620173.23
O	572598.74	12620366.71
P	572477.53	12620498.89
Q	572044.16	12620786.27
R	571757.22	12620899.96
S	571458.53	12621094.06
T	571148.42	12621217.45
U	570975.79	12621308.75

V	570520.99	12621478.05
W	570250.16	12621594.71
X	570103.87	12621688.10
Y	569454.72	12621850.64
Z	569175.38	12621936.64
AA	568586.22	12622095.66
BB	568381.03	12622131.70

Line	Distance	Bearing
AB	178.41'	N 8.2088° E
BC	378.47'	S 12.2634° E
CD	417.66'	S 9.0453° E
DE	372.96'	S 6.1675° E
EF	670.43'	S 6.0521° E
FG	638.89'	S 0.5115° E
GH	798.88'	S 1.4943° W
HI	639.54'	S 4.4905° W
IJ	616.76'	S 8.6874° W
JK	674.90'	S 7.3155° W
KL	243.85'	S 19.9831° E
MN	331.8'	S 8.7838° E
NO	402.9'	S 28.7032° E
OP	179.3'	S 47.4775° E
PQ	520.0'	S 33.5503° E
QR	308.6'	S 21.6131° E
RS	356.2'	S 33.0176° E
ST	333.8'	S 21.6971° E
TU	195.3'	S 27.8748° E
UV	485.3'	S 20.4175° E
VW	294.9'	S 23.3031° E
WX	175.6'	S 32.5573° E
XY	669.2'	S 14.0563° E
YZ	292.3'	S 17.1123° E
ZAA	610.3'	S 15.1050° E
AABB	208.3'	S 9.9619° E

The City shall review the location of the line commonly referred to as the Elevation Contour every ten (10) years or if the 50-year flood elevation is updated by the State of Michigan for the purpose of identifying shorelands at risk of inundation and high-energy waves during a relatively high-probability storm event, and determine if it should be adjusted.

40-423.03 Shoreline Protection Measures. For the reasons set forth in Subsection 40-423.01, the installation, construction and operation of shoreline protection measures, including but not limited to breakwater, groins, riprap, revetment, bulkhead, seawall, and sandbags, within the B-OD shall be subject to the following:

- A. No shoreline protection measure shall be installed or constructed in the B-OD, except for temporary fencing not more than four feet (4') in height and with openly spaced slats or weaves, placed seasonally between October 1 and May 1 to influence the accumulation of sand and/or snow that does not prevent public passage across the public trust property.
- B. In the event the provisions of this section effectively prevent the development or use of a lot existing on the effective date of this amendment for all purposes permitted in the underlying zoning district, or create an unnecessary hardship for the use of such a lot, the property owner may seek a variance.
- C. If any lot within or partially within the B-OD is divided or the subject of a boundary adjustment after the effective date of this amendment such that any resulting parcel is nonbuildable due to the regulations of this section, except for a boundary adjustment that has the effect of lessening a nonconformity with respect to this section, it will be deemed a voluntary action of the property owner and will disqualify the resulting nonbuildable parcel from receiving a variance.
- D. In the event the provisions of the B-OD render nonconforming a structure which is existing or under construction pursuant to a valid building permit on the effective date of this amendment, completion of the permitted project shall not be deemed a voluntary action of the property owner that would disqualify the parcel from receiving a variance if on lands within and adjacent to the B-OD.
- E. To the extent of any conflict between the regulatory provisions contained in this section and other provisions of the zoning ordinance, the restrictions contained in this section shall control with respect to all lots that include land within the B-OD.

Section 2. Beach Overlay District Map. The Beach Overlay District Map attached as **Exhibit A**, consisting of Sheets A-1 and A-2, is hereby adopted and incorporated as part of this ordinance.

Section 3. Effective Date. This ordinance shall become effective 20 days after its adoption or upon its publication, whichever occurs later.

YEAS:	<u>Monetza, Brugger, Scott, Fritz, and McCaleb</u>
NAYS:	<u>NONE</u>
ABSTAIN:	<u>NONE</u>
ABSENT:	<u>NONE</u>

[CERTIFICATION ON NEXT PAGE]

CERTIFICATION

I certify this true and complete copy of Ordinance No. 18-04, adopted at a Regular Meeting of the Grand Haven City Council held on May 7, 2018.

Linda L. Browand, City Clerk

PC Hearing: _____, 2018

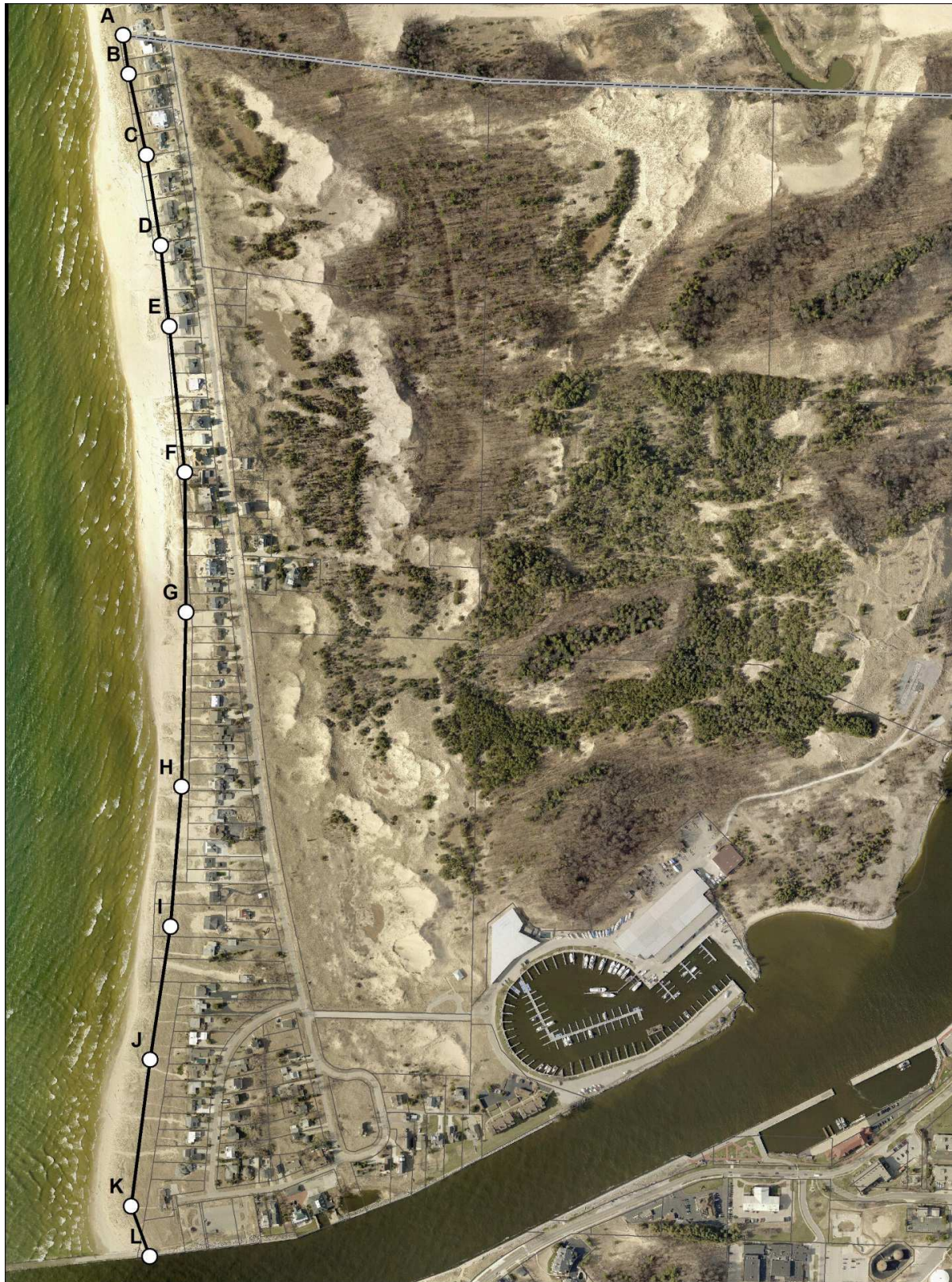
Introduced: April 23, 2018

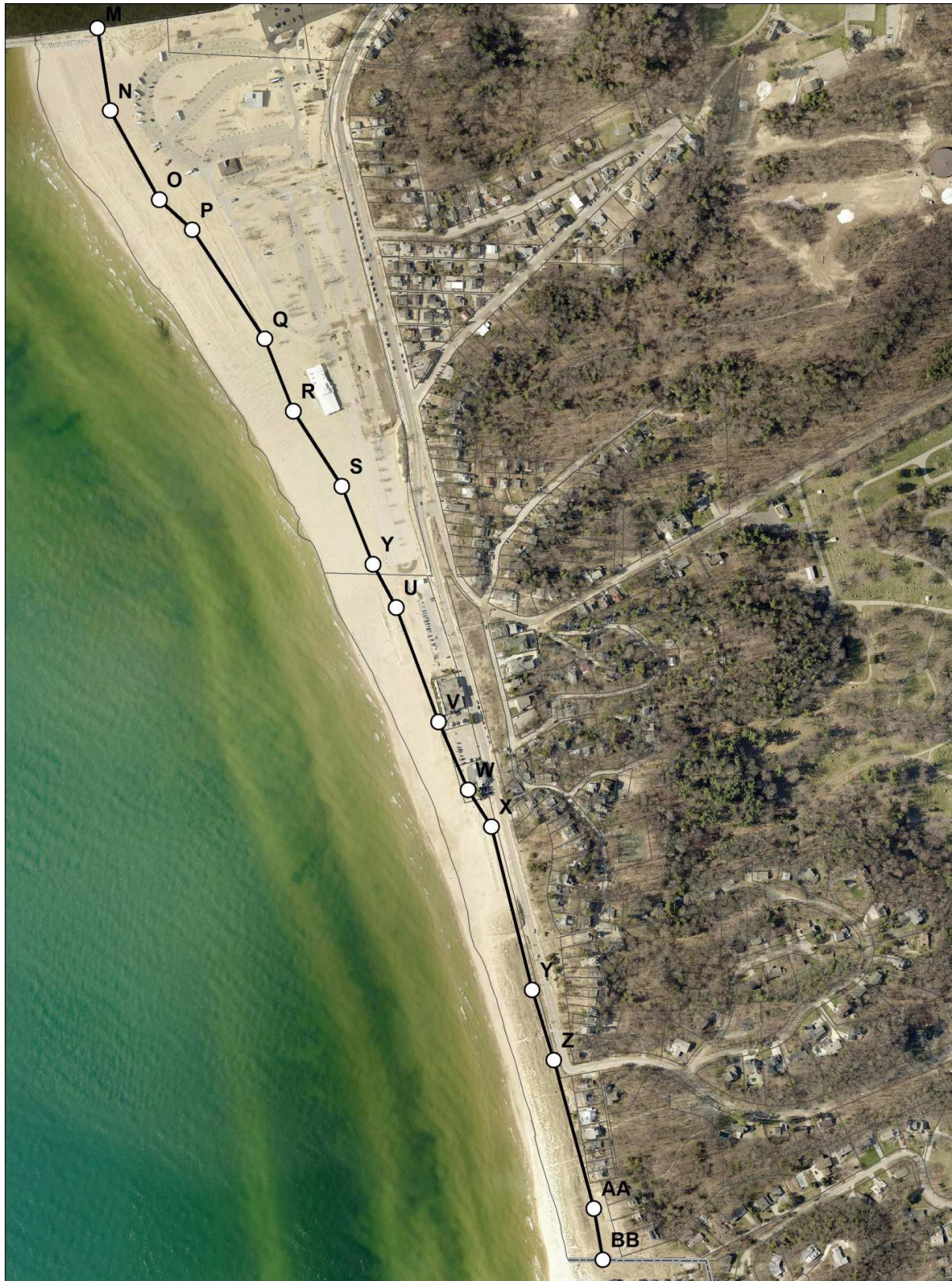
Adopted: May 5, 2018

Published: May 18, 2018

Effective: May 27, 2018

**EXHIBIT A
BEACH OVERLAY DISTRICT MAP**





GRAPIDS 57570-14 495410v1