



Memorandum

TO: City Planning Commission

COPY:

FROM: Shawn Winter, Planning Director

MEMO DATE: April 11, 2023

SUBJECT: Presentation and discussion on the draft story map outlining the Planning Commissions goals related to expanding housing opportunities

EXECUTIVE SUMMARY:

Staff has created a draft story map outlining the Planning Commission's annual goal to expand housing opportunities and will present it at this month's study session. The story map is inclusive and reflective of the goals established by the Planning Commission. The document is intentionally comprehensive in that it addresses the need for more attainable housing options, the impacts the lack of housing are creating, what is meant by housing options, the history of zoning, the concerns that have been previously expressed, an overview of the residential zoning districts, the proposed changes with interactive maps, letters of support, a timeline for the public to stay engaged, and additional resources for the public and Planning Commissioners to have available if interested in further research. Admittedly, this has led to a lengthy document but staff wanted to create a suppository of information on the internet that is available to all who wish to review the topic. Staff will likely work on a condensed publication or document that summarizes the content at a high level. The story map is viewable at the following link.

[Creating Community Opportunity Through Housing Variety.](#)

Staff will be looking to receive feedback on the story map and any requested modifications. Since this will live on the internet it may be edited from time to time, but will still be accessible through the same link. For instance, there are additional letters of support that may come after the publication of the packet that will be added at a later date.

Also attached are the draft redlined chapters of the chapters in the zoning ordinance that would be impacted by the Planning Commission's actions on their annual goal. It is possible that additional edits to these documents may be added if identified before the

Planning Commission formally introduces the proposed amendments at their May regular meeting.

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Chapter 1320: General Provisions and Definitions

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 1320: General Provisions and Definitions of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

Chapter 1320 – General Provisions and Definitions

1320.01 Title.

This Title Two of Part Thirteen—The Planning and Zoning Code, shall be known and may be cited as the "Zoning Ordinance" or the "Zoning Code."

1320.02 Purpose.

This Zoning Code is enacted for the public health, safety and welfare.

1320.03 Interpretation; conflict of laws.

This Zoning Code is the minimum requirement for promoting the public health, safety and general welfare. If it imposes more restrictions than state law or other City ordinances, the provisions of this Zoning Code shall govern. If the State Housing Law (MCL 124.401 et seq; MSA 5.2771, et seq) or the Airport Zoning Act (MCL 259.431, et seq; MSA 5.3475) or other statutes or ordinances have stricter regulations, the provisions of the statute or other ordinance shall govern. This Zoning Code is not intended to interfere with or annul any easement, covenant or other agreement between parties. Section titles or headings and any entire section entitled "Purpose" shall be interpretive aids only and shall not be construed to impose any substantive or procedural requirement.

1320.04 Changes and amendments.

(a) *Procedure.* The City Commission, on its own motion or on petition, may amend or repeal zoning boundaries or regulations after submitting them to the Planning Commission for its recommendation, report and public hearing. The City Commission may also hold a public hearing with the notice it deems advisable. A hearing before the Planning Commission shall be granted a person interested at the time of its public hearing. The procedure for the Planning Commission public hearing shall be as follows:

- (1) At least 15 days notice of the public hearing shall be given in an official newspaper of general circulation in the City.
- (2) At least 15 days notice of the time and place of the public hearing shall be mailed to each airport manager, electric, gas, pipeline, telephone, telecommunications provider,

public utility company and to each railroad company owning or operating any public utility or railroad within the districts affected that registers its name and mailing address with the City Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.

- (3) After the ordinance and maps have first been approved by the City Commission, if an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given at least 15 days before the hearing to:
- a. The owners of the property in question, unless 11 or more adjacent properties are proposed for rezoning; and all persons to whom real property is assessed within 300 feet of the boundary of the property in question, unless 11 or more adjacent properties are proposed for rezoning; and
 - b. All persons to whom real property is assessed within 300 feet of the boundary of the property in question, unless 11 or more adjacent properties are proposed for rezoning; and
 - c. At least 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 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 to the structure. The occupants of all structures within 300 feet of the boundary of the property in question. Where the name of the occupant is not known, the term "occupant" may be used in making notification unless 11 or more adjacent properties are proposed for rezoning.
- (b) *Notice.* The notice shall contain the following:
- (1) A description of the proposed zoning;
 - (2) A description of the subject property including a listing of all existing street addresses within the property where they exist, unless 11 or more adjacent properties are proposed for rezoning;
 - (3) The time and place of the public hearing; and
 - (4) When and where written comments will be received.
- (c) *Protest.* If a protest of the proposed amendment is presented to the City Commission at or before final action on the amendment and it is properly signed by the owners of at least 20 percent of the area of land included in the proposed change, excluding publicly owned land, or by the owners of at least 20 percent of the area of and included within an area extending out 100 feet from any point on the boundary of land included in the proposed change, excluding publicly owned land, then such amendment shall be passed only upon 5 affirmative votes of the City Commission.
- (d) *Hearing request.* The City Commission shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the City Clerk.
- (e) *Publication.* Following the adoption of a zoning ordinance or amendment by the City Commission, a notice of adoption shall be published in a newspaper of general circulation in the City within 15 days after adoption. The notice shall include the following information:

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- (1) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City Commission of the City of Traverse City;"
 - (2) In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;
 - (3) The effective date of the ordinance;
 - (4) The place and time where a copy of the ordinance may be purchased or inspected.
- (f) *Court decree.* An amendment for the purpose of conforming a provision of the Zoning Ordinance to a decree of a court of competent jurisdiction may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to the Planning Commission.

1320.05 Application of code; compliance required.

Except as otherwise allowed by this Zoning Code:

- (1) No building or structure shall be built, rebuilt, converted, enlarged, moved or structurally altered, and no building or land shall be used, except for a use allowed in that district.
- (2) No building or structure shall be built, rebuilt, converted, enlarged, or structurally altered except in conformity with the height, setback, bulk and other dimensional limits for that district.
- (3) No land shall be cleared, no building or structure shall be built or rebuilt, converted, enlarged or structurally altered, and no parking area built or enlarged except after applying for and receiving a land use permit.
- (4) No building shall be built or increased in area except in conformity with the off-street parking and loading regulations of the district in which such building is located unless it receives a special land use permit or planned unit development permit or parking waiver that changes these regulations.
- (5) The minimum setbacks, parking spaces and other open spaces, including lot area per dwelling, required by this Zoning Code for any building hereafter built or structurally altered, shall not be encroached upon or considered as parking, setback, open space or lot area requirement for any other building, nor shall any lot area be reduced beyond the district requirements of this Zoning Code.
- (6) No setback or lot shall be reduced in dimensions or area below the minimum requirements set forth herein except as a result of governmental action. Lots created after the effective date of this Zoning Code shall meet at least the minimum requirements of this Code.
- (7) No lot, once established or improved with a building or structure shall be divided unless each lot resulting from the division conforms with all of the requirements of this Code.
- (8) Conditional rezoning.
 - a. *Purpose.* It is the intent of this Section to provide a process by which an applicant seeking a rezoning of land may propose a Conditional Zoning Offer, with conditions and commitments attached thereto, as part of the application for a requested rezoning

pursuant to MCL 125.3405. These provisions shall be in accord with the provisions of the Zoning Act.

- b. *Zoning district.* An applicant requesting a rezoning may offer a Conditional Zoning Offer, as defined in this section. The required application and process shall be the same as for rezoning requests, except as modified by the requirements of this section.
- c. *Definitions.* The following definitions shall apply to this section.
 1. *Conditional rezoning offer* means conditions voluntarily proposed by a landowner for the use and development of land in exchange for the rezoning of the land. These conditions shall constitute requirements for, and in connection with, the development or use of the property approved under a Zoning Agreement.
 2. *Zoning agreement* means a written agreement offered by the landowner and approved and executed by the landowner and the City and recorded with the Register of Deeds in the county where the property covered by the Zoning Agreement is located, incorporating the Conditional Rezoning Offer along with any requirements necessary to implement the Conditional Rezoning Offer. When necessary, the Zoning Agreement shall also include and incorporate, by reference, a Site Plan that illustrates the implementation of the Conditional Rezoning Offer. This Site Plan and Zoning Agreement shall not replace the requirement for a Site Plan as provided by the Zoning Ordinance.
- d. *Eligibility.*
 1. A landowner may submit a proposed Conditional Rezoning Offer and Zoning Agreement with an application for a rezoning or at any time during the rezoning process.
 2. To be eligible, an applicant shall propose a Zoning District for the parcel at issue to be rezoned to and voluntarily offer use and development conditions for the affected parcel to be set forth in a Zoning Agreement, which are equally or more restrictive than the regulations that would otherwise apply under the proposed Zoning District.
- e. *Conditional zoning offer.*
 1. The Conditional Rezoning Offer shall bear a reasonable and rational relationship or benefit to the property in question.
 2. The Conditional Rezoning Offer may not offer uses or developments of greater intensity or density, or that are not permitted in the proposed rezoned Zoning District.
 3. Any use or development proposed that would require a variance from height, area, setback or similar dimensional requirements in the Zoning Chapter will not be allowed unless and until a variance is granted by the Board of Zoning Appeals pursuant to the requirements of Chapter 1324.
 4. Any use or development proposed that would require approval of a Special Land Use or Site Plan Review will not be allowed unless approved as required by the Zoning Ordinance prior to establishment or commencement of development of the use.

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5. The Conditional Rezoning Offer may be amended during the process of rezoning consideration provided that any amended or additional conditions are offered voluntarily by the landowner. A landowner may withdraw part of or amend its Conditional Zoning Offer any time prior to the final rezoning action of the City Commission by amendment of the application and Zoning Agreement. If such withdrawal or amendment occurs following the Planning Commission's public hearing on the original rezoning request, the amended application shall be referred to the Planning Commission for a new public hearing.
 6. A landowner may entirely withdraw its Conditional Rezoning Offer at any time prior to the adoption of the rezoning and Zoning Agreement by the City Commission.
- f. *Zoning agreement.* The Zoning Agreement shall incorporate the Conditional Rezoning Offer and shall include additional terms as necessary to implement the Zoning Agreement. In addition, the Zoning Agreement shall include the following:
1. That the Zoning Agreement and the Conditional Rezoning Offer were proposed voluntarily by the landowner, and that the City relied upon and granted the rezoning request in consideration of the Zoning Agreement and the Conditional Rezoning Offer.
 2. That the Zoning Agreement and its terms and conditions are authorized by all applicable state and federal law and that the Zoning Agreement is valid.
 3. That the property shall be developed or used in a manner that conforms to the requirements of the rezoned Zoning District and the Zoning Agreement.
 4. That the Zoning Agreement shall be binding upon and inure to the benefit of the landowner and the City, and their respective heirs, successors, assigns, receivers or transferees.
 5. That, if the rezoning becomes void under this section, no development shall take place and no permits shall be issued unless and until a new Zoning District classification for the property has been established or a new rezoning been approved.
 6. That each of the requirements and conditions in the Zoning Agreement are necessary and reasonably related and roughly proportional in nature and extent to the impact created by the uses or activities authorized in the Zoning Agreement.
 7. That no part of the Zoning Agreement shall permit any activity, use, or condition that would otherwise be prohibited in the Zoning District to which the property is rezoned.
 8. The Zoning Agreement shall also contain a provision authorizing and providing a fund for the City to maintain proposed privately owned common areas within the development in the event that the property owner(s) fail(s) to timely perform necessary maintenance.
- g. *Application procedure.*

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1. An application for Conditional Rezoning shall include a Conditional Rezoning Offer, the proposed Zoning Agreement in a recordable format acceptable to the City, and any plans necessary to illustrate the Conditional Rezoning Offer. The Planning Director shall determine the adequacy of any submitted plan and may request additional detail if deemed necessary to properly demonstrate the extent of the proposed offer(s).
 2. The application may be amended during the process of consideration, provided that any amended or additional Conditional Rezoning Offers are proposed and entered voluntarily by the applicant.
 3. The Zoning Agreement shall be reviewed by the City Attorney prior to the required Planning Commission public hearing to confirm that the Zoning Agreement is in a form acceptable for recording with the Register of Deeds in the county in which the property covered by the Zoning Agreement is located.
- h. *Review procedures.*
1. *Application completeness.* Upon submittal of a completed application in the proper form, the Planning Director shall assign the application a public hearing date and time.
 2. *Official review.* The Planning Director shall circulate site plans to the relevant agencies or officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the application is recommended.
 3. *Planning commission review.* The Planning Commission shall undertake a study of the proposed rezoning and set the matter for a public hearing in accordance with the requirements of the Zoning Act and the Planning Commission Rules of Procedure for consideration of any rezoning request.
 4. *Review standards.* The Planning Commission shall consider whether the proposed Zoning Agreement and Conditional Rezoning offer meet the standards in MCL 125.3201(1).
 5. *Recommendation to city commission.* The Planning Commission may recommend approval or denial of the Conditional Rezoning and Zoning Agreement.
 6. *City commission decision.* Upon receipt of the Planning Commission's recommendations, the City Commission shall approve or deny the Conditional Rezoning and Zoning Agreement.
- i. *Implementation and effective date.*
1. Upon adoption of a rezoning and Zoning Agreement, notice of adoption shall be published in accordance with the requirements of the Zoning Act.
 2. The Zoning Map shall be amended to specify the Zoning District to which the property is rezoned, plus the letter "A" to indicate that the property is subject to a Zoning Agreement. The City Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.

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3. The applicant shall record the approved Zoning Agreement with the Register of Deeds in the county in which the property covered by the Zoning Agreement lies within 30 business days following approval by the City Commission. Evidence of recording shall be provided to the City Clerk within 45 business days of approval by the City Commission.
 4. The rezoning and Zoning Agreement shall commence and be in full force 31 calendar days after the date the City Commission adopted the amendment and authorized the Agreement, unless otherwise provided by the City Commission.
 5. The use and development of the property(ies) shall conform to all of the requirements regulating use and development within the new Zoning District and the requirements of the Zoning Agreement. In the event of a conflict, the Zoning Agreement's requirements shall prevail.
 6. Prior to development, any other applicable zoning approval or other approval requirement imposed by this chapter or other City ordinances shall be met.
- j. *Duration of approval.*
1. Unless extended by the City Commission for good cause, the Rezoning and Zoning Agreement shall expire and be void and of no effect 2 years after adoption of the Conditional Rezoning and Zoning Agreement, unless the development set forth in the Zoning Agreement is 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 Planning Director, subject to appeal to the Board of Zoning Appeals.
 2. Should the Rezoning and Zoning Agreement expire, 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 the Zoning Agreement, the City may withhold or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.
 3. Notwithstanding the above, if the property owner applies in writing for an extension of the Zoning Agreement at least 60 days prior to the expiration date, the City Commission may, after recommendation by the Planning Commission, grant an extension of up to 1 year. The extension may be granted if the property owner is able to demonstrate that the reasons for the extension were reasonably beyond his or her control and that the project has a reasonable expectation of proceeding. No further extensions shall be granted.
 4. Nothing in the Zoning Agreement, nor any statement or other provision shall prohibit the City from rezoning all or any portion of the property that is part of the Agreement to another Zoning District. Any rezoning shall be conducted in compliance with the Zoning Ordinance and the Zoning Act.
- k. *Continuation of approval.*

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1. Provided that all development or use of the property in question is in compliance with the Zoning Agreement, a use or development authorized thereunder may continue indefinitely.
 2. Failure to comply with the Zoning Agreement at any time after approval shall constitute a violation of this Zoning Ordinance and may constitute a breach of the Zoning Agreement, and further use of the property may be subject to legal remedies available to the City, including the Zoning Agreement becoming void.
- I. *Reversion or rezoning.*
1. If the Zoning Agreement becomes void as provided in this Section, then the land shall revert to the former Zoning District, as required by the Zoning Act. The reversion process shall be initiated by the Planning Commission pursuant to the rezoning procedure set forth in the Zoning Ordinance and the Michigan Zoning Enabling Act.
 2. Upon reversion, the City Clerk shall record with the Register of Deeds in the county in which the property covered by the Zoning Agreement lies a notice that the Zoning Agreement is no longer in effect.

1320.06 Severability.

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

1320.07 Definitions.

As used in this chapter:

Abutting means a lot or parcel which shares a common border with the subject lot or parcel.

Accessory building means a building or structure customarily incidental and subordinate to the principal building and located on the same lot as and spatially separated from the principal building.

Accessory dwelling unit means a smaller, secondary home on the same lot as a principal dwelling. Accessory dwelling units are independently habitable and provide the basic requirements of shelter, heating, cooking and sanitation. There are 2 types of accessory dwelling units:

- (1) Accessory dwelling in an accessory building (examples include converted garages or new construction).
- (2) Accessory dwelling that is attached or part of the principal dwelling (examples include converted living space, attached garages, basements or attics; additions; or a combination thereof).

Accessory use means a use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

Adult foster care family home means a private residence with the approved capacity to receive not more than 6 adults who shall be provided foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home state licensee shall be a member of the household and an occupant of the residence.

Adult foster care small group home means a state licensed adult foster care facility with the approved capacity for not more than 12 adult residents to be provided foster care.

Adult-use marihuana event organizer means a person licensed to apply for a temporary marihuana event license under the MRTMA and a marihuana permit under the applicable Codified Ordinances of the City of Traverse City to the extent permitted by State law and rules.

Adult-use marihuana establishment means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the state to operate under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 MCL 333.27951 et seq., as amended and permitted by the City pursuant to this Code of Ordinances.

Adult-use marihuana retailer means a use where a person holding a state operating license under the MRTMA and a marihuana permit under the Codified Ordinances of the City of Traverse City obtains marihuana from marihuana establishments and sells or otherwise transfers marihuana to marihuana establishments and to individuals who are 21 years of age or older to the extent permitted by State law and rules..

Affordable housing means housing units for eligible low-income households where the occupant is paying no more than 30 percent of gross income for housing costs.

Aggrieved person means a person who has suffered a substantial damage from a zoning decision not in common to other property owners similarly situated, and who has actively opposed the decision in question.

Airport terminal means the main passenger location of an airport and includes all office, hotel and retail uses commonly occurring at such locations.

Alley means a way which functions primarily as a service corridor and provides access to properties abutting thereon. "Alley" does not mean "street."

Alteration means any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders.

Basement means that portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement, as defined herein, shall not be counted as a story (see Figure 1-1). A cellar is a basement.

Berm means a constructed mound of earth rising to an elevation above the adjacent ground level of the site where located which contributes to the visual screening of the area behind the berm.

Block means a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity of development.

Block, face. "Face block" means that portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

Boat house means an enclosed or partially enclosed structure designed for the use and storage of private watercraft and marine equipment.

Boat livery means any structure, site or tract of land utilized for the storage, servicing, docking or rental of watercraft for a fee.

Brew pub means a facility as defined such by the State of Michigan.

Building means any structure designed or built for the enclosure, shelter or protection of persons, animals, chattels or property of any kind.

Building, height of. See "height of building."

Building, principal. "Principal building" means a building within which is conducted the main or principal use of the lot upon which it is located. More than one principal building is allowed on a lot.

Cemetery means property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings or household pets.

Clinic means an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians or dentists or similar professions.

Club means an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit and open only to members and not the public.

Cluster means a development design technique that concentrates building on a portion of the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features.

Communication antenna means a device, dish or array used to transmit or receive telecommunications signals mounted on a communication tower, building or structure that is greater than 1 square meter in a residential district or 2 square meters in a non-residential district. Antenna does not include federally-licensed amateur radio station, television or radio receive-only antennas or antennas used solely for personal use. Communication antennas are not "essential services," public utilities or private utilities.

Communication tower or tower means any structure that is primarily designed and constructed for the purpose of supporting 1 or more antennas for telecommunications, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. Communication towers are not "essential services," public utilities or private utilities.

Community garden means a parcel gardened collectively by a group of people.

Convenience store means a retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

Country club. See "golf course."

Crematories means a building or structure, or room or space in a building or structure, for the cremation of deceased persons or deceased household pets.

Critical root zone means a circular area surrounding a tree, the radius of which is measured outward from the trunk of a tree 1 foot for each 1 inch of diameter at breast height. The critical root zone shall also extend to a depth of 4 feet below the natural surface ground level.

Cultural facilities means facilities for activities for the preservation and enhancement for the cultural well-being of the community.

Development means all structures and other modifications of the natural landscape above and below ground or water on a particular site.

Diameter at breast height means the diameter of a tree trunk in inches measured by diameter at 4.5 feet above the ground.

District means a section of the City for which the zoning regulations governing the use of buildings and premises, the height of buildings, setbacks and the intensity of use are uniform.

Drive-in means an establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

Drive-through means an establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive service or obtain goods intended to be consumed off-premises.

Dripline means an imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Driveway means a means of access for vehicles from a street, approved alley, across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot.

Driveway, service means a point of access solely for the use of vehicles designed to load and unload trash receptacles 3 cubic yards or more in size.

Dwelling means any building or portion thereof which is designed for or used exclusively for residential purposes and containing 1 or more dwelling units.

Dwelling, duplex. "Duplex dwelling" means a single building designed for the occupancy of 2 family units living independently of each other in 2 separate dwelling units.

Dwelling, multiple family. "Multiple family dwelling" means a building ~~or~~ a portion thereof, or buildings containing 3 or more dwelling units and designed for or occupied as the home of 3 or more ~~families~~ family units living independently of each other.

Dwelling, quadplex. "Quadplex dwelling" means a single building designed for the occupancy of 4 family units living independently of each other in 4 separate dwelling units.

Dwelling, single-family. "Single-family dwelling" means a detached building containing 1 dwelling unit and designed for or occupied by only 1 family unit.

Dwelling, triplex. "Triplex dwelling" means a single building designed for the occupancy of 3 family units living independently of each other in 3 separate dwelling units.

Dwelling, two-family. "Two-family dwelling" means a building or buildings designed for or occupied exclusively by 2 ~~families~~ family units living independently of each other.

Dwelling unit means 1 or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by 1 family for living, cooking and sleeping purposes. The existence of a food preparation area (such as a sink and appliances to heat and refrigerate food) within a room or rooms shall be evidence of the existence of a dwelling unit.

Eligible household means a household meeting the income criteria included in Chapter 1376, with income determined in a manner consistent with determinations of lower-income households and area median income under Section 8 of the U.S. Housing Act of 1937, as amended (Section 8 Housing Program).

Eligible housing nonprofit means a 501(c)3 nonprofit housing organization with the means and capacity to guarantee and enforce long-term affordability of affordable housing units meeting the requirements of Chapter 1376.

Emergency shelter means a facility operated by a governmental or nonprofit agency where supportive services and shelter are offered to homeless persons.

Erected means built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage and the like, shall be considered a part of erection when done in conjunction with a structure.

Essential services means the installation, construction, alteration or maintenance by public utilities or governmental agencies of underground, surface or overhead telephone, electrical, gas, steam, fuel, or water distribution systems, collections, supply or disposal systems, streets, alleys, sidewalks, or trails, including pavement, traffic control devices, signs, poles, wires, mains, drains, sewers, pipes, conduits, cables, padmount transformers, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or governmental agencies for the general public health, safety, convenience or welfare. "Essential services" do not include communication antennas and communication towers.

Essential service-structures. The erection, construction, alteration or maintenance by public utilities or governmental agencies of structures not in the right-of-way over 800 cubic feet in area including, but not limited to, towers, transmission and subtransmission facilities, or buildings related to essential services in all districts.

Facade means the exterior wall of a building exposed to public view.

Family unit means 1 or more persons occupying a dwelling unit and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from persons occupying a boarding house, lodging house or hotel.

Fence means a constructed barrier made of wood, metal, stone, brick or any manufactured materials erected for the enclosure of yard areas.

Flood plain, 100-year. "100-year flood plain" means the lowland areas adjoining inland and coastal waters which are identified on Floodway Maps produced by FEMA (Federal Emergency Management Agency) and which are estimated to have a 1 percent chance of flooding in a given year.

Floor area. See "a gross floor area."

Frontage means the total continuous width of the front lot line.

Golf course/country club means any golf course, public or private, where the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges and miniature golf courses as a principal use.

Grade means:

- (1) *For buildings having walls adjoining 1 street only:* the elevation of the public sidewalk, top of curb, or centerline of the street right-of-way, whichever is closest to the building, where a building wall adjoins a street.
- (2) *For buildings having walls adjoining more than 1 street:* the average elevation of the sidewalks, curbs or centerlines of streets, whichever is closest to the building walls adjoining the streets.
- (3) *For buildings having no wall adjoining the street:* the average of the lowest and highest ground surface elevations in an area within 6 feet of the foundation line of a building or structure. Any building or structure wall within 35 feet of a public or private street shall be considered as adjoining the street. (See Figure 1-2.)

Greenbelt means a strip of land of definite width and location upon which existing vegetation is preserved or an area is reserved for the planting of living plant materials to serve as an obscuring screen or buffer strip in carrying out the requirements of this Code.

Grocery store means a retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods.

Gross floor area (GFA) means the sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating 2 buildings, but excluding any space where the floor-to-ceiling height is less than 6 feet.

Guest night means an adult who occupies a room in a tourist home overnight. (i.e. An adult guest occupying a room in a tourist home for 4 nights has stayed for 4 guest nights.)

Height of building means the vertical distance from the grade to the highest point on a mansard or flat roof or to the median height between the eaves and the ridge for gable, hip and gambrel roofs. (See Figure 1-3).

Home occupation means an accessory use of a dwelling unit for business purposes.

Hospitality house means a facility that provides lodging to patients, family members or caretakers and medical workers while away from their home communities. The facility will typically have shared kitchens, common living areas and private bedrooms.

Host, tourist home, means the owner resides in the tourist home overnight.

Invasive Species means:

- (1) Non-native (or alien) to the ecosystem under consideration; and,
- (2) Whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

Impervious surface means any material which prevents, impedes or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation bearing soils, including building, asphalt, concrete, gravel and other surfaces.

Impervious surface ratio means the area of impervious surface less those areas used exclusively for pedestrian circulation or outdoor recreational facilities divided by the gross site area.

Kennel means any lot or premises used for the sale, boarding, or breeding of dogs, cats or other household pets or the keeping of 5 or more dogs or cats in any combination over the age of 6 months.

Land clearing means:

- (1) The removal of over 4,000 square feet of woody vegetation from any site, or
- (2) The removal of more than 10 trees more than 6 inches in diameter at breast height or 2 trees more than 24 inches in diameter at breast height from any parcel.

Mowing, trimming or pruning of vegetation to maintain it in a healthy, viable condition is not considered land clearing, nor is the removal of woody plants in connection with the installation or maintenance of any essential service not including an essential service building.

Landing area means a landing pad, area, strip, deck or building roof used to launch or receive aircraft, including, but not limited to, power-driven winged or delta-winged aircraft, gliders, balloons and helicopters.

Landscaping means some combination of planted canopy trees, vines, ground cover, flowers or turf so long as a minimum of 80 percent of the landscape area is covered by living plant material. Planted trees shall be a least 2½ inches caliper and shall comply with the species requirements set forth

in the City's approved *Tree List*. In addition, the combination or design may include rock ground cover, earth mounds, and such structural features as fountains, pools, art works, screens, walls, fences and benches.

Laundromat means a business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises or operated for the benefit of retail customers who bring in and call for laundry.

Lodging facility means a commercial establishment with 1 or more buildings whose primary use is to provide temporary overnight accommodations within individual guest rooms or suites to the general public for compensation. Accessory uses may include eating places, meeting rooms and other similar uses.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this Zoning Code, including 1 principal building together with accessory buildings, open spaces and parking areas required by this Zoning Code, and having its principal frontage upon a street or upon an officially approved private street. The word "lot includes the words "plot," "tract" or "parcel."

Lot, corner. "Corner lot" means a lot which has at least 2 contiguous sides abutting on and at the intersection of 2 or more streets.

Lot of record means a lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat.

Lot, through. "Through lot" means an interior lot having frontage on 2 more or less parallel streets.

Lot width means the horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line.

Manufacturing, artisan means production of goods by the use of hand tools or small-scale, light mechanical equipment. Typical uses include apparel and jewelry making, limited production of alcohol, or food processing, woodworking and cabinet shops, ceramic studios, and similar types of arts and crafts.

Market, municipal. "Municipal market" means a publicly owned and operated building or space where vendors offer a wide range of different products from open stalls.

Marina means a commercial mooring, berthing, or docking facility for watercraft with or without provisions for launching, haulout, servicing, fueling or sales of accessory supplies.

Marihuana microbusiness means a use where a person holding a state operating license under the MRTMA and a permit under the Codified Ordinances of the City of Traverse City cultivates not more than 150 marihuana plants; processes and packages marihuana; and sells or otherwise transfers marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments, to the extent permitted by State law and rules.

Medical marihuana facility means a location at which a person is licensed to operate under the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and holds a marihuana facility permit under Chapter 845 of the Codified Ordinances of the City of Traverse City and operates as a medical marihuana grower, medical marihuana processor, medical marihuana secure transporter, medical marihuana provisioning center, or a medical marihuana safety compliance facility.

Marihuana grower or Medical marihuana grower means a use where a person holding a state operating license under the MMFLA or MRTMA, and a marihuana permit under the Codified Ordinances

of the City of Traverse City cultivates, dries, trims, or cures and packages marihuana for sale to the extent permitted by State law and rules.

Medical marihuana provisioning center means a use where a person holding a state license under the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and a marihuana facility permit under Chapter 845 of the Codified Ordinances of the City of Traverse City purchases medical marihuana from a medical marihuana grower or medical marihuana processor and commercially sells, supplies, or provides medical marihuana to registered qualifying patients as defined in the Michigan Medical Marihuana Act, MCL 333.26241 et seq., directly or through the registered qualifying patients' registered primary caregiver. Medical marihuana provisioning center includes any property where medical marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A residential location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the Michigan Medical Marihuana Act, MCL 333.26241 et seq., is not a medical marihuana provisioning center.

Marihuana processor or Medical marihuana processor means a use where a person holding a state license under the MMFLA or MRTMA, and a marihuana permit under the Codified Ordinances of the City of Traverse City purchases marihuana from a marihuana grower and extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to the extent permitted by State law and rules.

Marihuana safety compliance facility or Medical marihuana safety compliance facility means a use where a person holding a state operating license under the MMFLA or MRTMA., and a marihuana permit under the Codified Ordinances of the City of Traverse City tests marihuana, including certification for potency, the presence of contaminants, and tetrahydrocannabinol and other cannabinoids to the extent permitted by State law and rules.

Marihuana secure transporter or Medical marihuana secure transporter means a use where a person holding a state license under the MMFLA or MRTMA, and a marihuana permit under the Codified Ordinances of the City of Traverse City stores medical marihuana and transports marihuana for a fee to the extent permitted by State law and rules.

Microbrewery means a facility as defined as such by the State of Michigan.

MMFLA means the Medical Marihuana Facilities Licensing Act, MCL 333.2701 et seq. as amended from time to time.

MMMA means the Michigan Medical Marihuana Act, MCL 333.26421 et seq. as amended from time to time.

MRTMA means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended from time to time.

MTA means the Marihuana Tracking Act, MCL 333.27901 et seq., as amended from time to time.

Non-conforming use means a lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

Nursing home. See "residential care and treatment facility."

Open space, common. "Common open space" means land within or related to a development, not individually owned that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.

Ordinary high water mark means the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is identified along Grand Traverse Bay and Boardman Lake at an elevation defined by the US Army Corps of Engineers. The Boardman River ordinary high water mark is identified as the line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

Owner means any person having an ownership interest in a premises as shown on the latest Traverse City tax records.

Parcel. See a "lot."

Parking area means any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, driveways and legally designated areas of public streets.

Parking area, commercial. "Commercial parking area" means a tract of land which is used for the storage of motor vehicles, which is not accessory to any other use on the same or any other lot and which contains parking space rented to the general public or reserved for individuals by the hour, day, week or month.

Parking area, off-street. "Off-street parking area" means a land surface or facility providing vehicular parking spaces off of a street together with drives and maneuvering lanes so as to provide access for entrance and exit for the parking of motor vehicles.

Parking area, private. "Private parking area" means a parking area for the exclusive use of the owners, tenants, lessees, or occupants of the lot on which the parking area is located or their customers, employees, or whomever else they permit to use the parking area.

Parking area, public. "Public parking area" means a publicly owned or controlled parking area available to the public, with or without payment of a fee.

Parking space means an area of land provided for vehicles exclusive of drives, aisles, or entrances giving access thereto, which is fully accessible for parking of permitted vehicles.

Parking structure means a building or structure consisting of more than 1 level and used to store motor vehicles.

Pavement. "Pavement" and "paved" mean permanent and completely covered with concrete, a bituminous surface, brick or other surface approved by the Planning Director.

Pedestrian scale means design and construction considerations based upon the scale of a human being which imbue occupants and users of the built environment with a sense of comfort and security.

Person means a corporation, association, partnership, trust, firm or similar activity as well as an individual.

Place of worship means a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Planning director means the head of the City Planning and Zoning Department or the designee of that person.

Plat means a map of a subdivision of and recorded with the Register of Deeds pursuant to state statute

Primary residence means a housing unit in which an owner or lessee resides for the majority of the year and provides proof of primary residence evidence acceptable to the City Clerk.

Principal use means the main use of land or structures as distinguished from a secondary or accessory use.

Public utility means any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

R-District means a residence district, namely an RC, R-1a, R-1b, R-2, ~~R-9, R-15, and R-29~~ and R-3 district.

Recreational facilities means buildings, or grounds, excluding amusement parks, where a variety of sport or exercise activities are offered.

Recreational vehicle means a vehicle primarily designed and used as a temporary living quarters for recreational, camping, or travel purposes including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

Residential care and treatment facility means a facility providing:

- (1) Services, programs and temporary shelter for residents who are undergoing alcohol or substance abuse rehabilitation;
- (2) Temporary emergency shelter and services for battered individuals and their children in a residential structure.

Restaurant, family means an establishment where food and drink are prepared and served to seated customers. Customer turnover rates are typically less than 1 hour. Generally, these establishments serve breakfast, lunch, and dinner and sometimes are open 24 hours a day. It may include cafeteria-style facilities.

Restaurant, fast food means an establishment where food and drink are served to customers at a counter. Such establishments may or may not have seating facilities. Generally, food and drink is ordered and taken to be consumed outside the restaurant building.

Restaurant, fine means an establishment where food and drink are prepared and served. Customer turnover rates are typically 1 hour or longer. Such establishments serve dinner but generally do not serve breakfast and may or may not serve lunch or brunch.

Right-of-way means a public or private street, alley or easement permanently established for the passage of persons or vehicles.

Rooming house means a residential building where rooms or suites of rooms are rented where the renters use common facilities, such as hallways and bathrooms. A rooming house shall not include lodging facilities, apartment houses, 2 and multi-family dwellings or fraternity and sorority houses.

School means an educational institution under the sponsorship of a private or public agency providing elementary or secondary curriculum, and accredited or licensed by the State of Michigan; but excluding profit-making private trade or commercial schools.

Screen means a structure providing enclosure and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other growing materials.

Screen, opaque means a masonry wall, fence sections, earthen berm, evergreen hedge or a combination of these elements which completely interrupt visual contact and provide spatial separation.

Setback means the distance required between a lot line and a building wall.

Setback, front. A front setback means the minimum required distance, extending the full lot width, between the principal building and the front lot line. If there is more than one principal building on a lot, at least one of the principal buildings must meet the front setback.

Setback, rear. A rear setback means the minimum required distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front line.

Setback, side. A side setback means the minimum required distance, extending from the front setback to the rear setback, between the principal and accessory building and the side lot line.

Site diagram means a drawing, drawn to scale, showing the location of buildings and structures on a lot, as well as driveways, curb cuts, alleys, streets, easements and utilities. See Appendix 1, Figure 1-4.

Site plan means a plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Code.

Stop work order means an administrative order which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Code.

Street means any public way, such as a public street, avenue or boulevard, at least 16 feet wide. Street does not mean "alley." See also "Private street."

Street, access. "Access street" means a street or alley designed primarily to provide access to properties.

Street, arterial. "Arterial street" means a street designed to carry high traffic volumes through the community.

Street, collector. "Collector street" means a street designed to carry moderately high traffic volumes from arterial and access streets.

Street, private. "Private street" means an officially approved thoroughfare, other than a public street or alley, permanently reserved as the principal means of access to abutting property.

Structural alterations means any change in a building requiring a building permit.

Structure means anything constructed or erected, the use of which requires a more or less permanent location on the ground or an attachment to something having a permanent location on the ground, including, but not limited to, freestanding signs, billboards, back stops for tennis courts and pergolas.

Tree Canopy Cover means:

- (1) The cover provided by tree crowns over the ground surface, either individually or as a group; also, a measure of the percent of a lot covered by all tree canopy, calculated by dividing the total area of tree canopy cover by the total area of the lot, and multiplying by 100.

Tourist home, high intensity means a single-family dwelling that is a primary residence which is owned and hosted in residence by the owner renting out not more than 3 rooms for compensation, limited to not more than 2 adults per room, to persons who do not stay for more than 14 consecutive days for 85 or greater guest nights per year.

Tourist home, low intensity means a single-family dwelling that is a primary residence which is owned and hosted in residence by the owner renting out not more than 2 rooms for compensation,

limited to not more than 2 adults per room, to persons who do not stay for more than 14 consecutive days for no greater than 84 guest nights per year.

Townhouse means a multiple dwelling in which each dwelling unit shares a common wall with at least 1 other dwelling unit and in which each dwelling unit has living space on the ground floor and has a separate ground-floor entrance.

Trailer means any enclosure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirtings, and which has been or reasonably may be equipped with wheels or devices for transporting the enclosure from place to place. "Trailer" includes motor homes, travel trailers and camper vans.

Transit center means a fixed location where passengers interchange from 1 route or vehicle to another that has significant infrastructure such as a waiting room, benches, restrooms, sales outlet, ticket or pass vending machines and other services.

Transitional housing means a facility which is operated by a government or a nonprofit agency providing interim sleeping and bath accommodations; interim eating and cooking facilities; and professional services to assist individuals or families in locating permanent housing.

Tree protection area means: the soil around and under a tree. The radius of the tree protection area measures 1 foot per 1 inch of diameter at breast (DBH) from the trunk outwards and 24 inches in depth. For example, for a 10 inch DBH tree, the Tree Protection area is located at least 10 feet out from the trunk and 24 inches deep.

Treelawn means the area of public right-of-way lying between the curb line of a curbed street or developed travelway of a noncurbed street and the nearest private property line substantially parallel to said street.

Trip end means the total of all motor vehicle trips entering plus all motor vehicle trips leaving a designated land use or building over a given period of time.

Vacation home rental means a commercial use of a dwelling where the dwelling is rented or sold for any term less than 30 consecutive days.

Woody plant means:

- (1) Vegetation that produces wood as its structural tissue. Woody plants include trees, bushes, shrubs, vines and woody perennial flowering plants.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this Zoning Code.

Yard, front. "Front yard" means all land extending across the width of a property and lying between the building line and the front lot line.

Yard, rear. "Rear yard" means all land extending across the width of the property and lying between the building and the rear lot line.

Yard, side. "Side yard" means all land lying between a principal building and the side lot lines and extending from the front to the rear of the principal building.

Zoning Code means Part 13, Title One of the Code of Ordinances of the City of Traverse City and includes the text of this Zoning Code as well as all maps, tables, graphics, schedules as included or attached as enacted or subsequently amended.

1320.08 Standard industrial classification.

The Standard Industrial Classification Manual 1987, Office of Management and Budget, United States Government, has been relied upon by the drafters of this Code for identification of and classification of economic activities. When questions of interpretation arise the Standard Industrial Classification Manual 1987 may be relied upon as an aid.

1320.09 Rules of construction.

This chapter should be liberally construed to give effect to its purpose and the purposes of the Zoning Enabling Act. 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.

1320.10 Uses not mentioned.

When a use is not expressly mentioned in this Zoning Code, the Planning Director 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 Planning Directors decision shall be appealable to the Board of Zoning Appeals.

1320.11 Temporary buildings.

Temporary buildings used in conjunction with construction work only may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon the completion of the construction work.

1320.12 Recreational vehicles, houseboats and trailers.

Recreational vehicles, houseboats and trailers shall not be used for living purposes in any district other than in a licensed trailer park.

1320.13 Tents or portable buildings.

The use and occupancy of a tent or portable building for the purpose of general living quarters is not permitted in any zoning district.

1320.14 Excavation.

The extraction of sand, gravel, or other raw materials at or below grade and the processing of raw materials extracted upon the premises in all districts is allowed subject to the following:

- (1) The land to be excavated shall consist of not less than 10 contiguous acres.
- (2) Mining operations are not likely to create a nuisance or interfere with the reasonable enjoyment of surrounding land.
- (3) It shall be demonstrated by independent professional affidavit that all operations will comply with City noise ordinances.

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- (4) Dust, smoke or similar airborne particles shall not leave the property in amounts or degrees greater than from allowable uses in the same district.
 - (5) All operations and excavations shall be protected against trespass by fences and other suitable means. Truck traffic to and from the site shall be limited to Monday through Friday and shall not be earlier than 9:00 a.m. or later than 5:00 p.m.
 - (6) All operations and excavations shall be set back at least 100 feet from the property line and 200 feet from any abutting body of water or R-district.

The effective date of this Ordinance is the _____ day of _____, 2023.

I hereby certify the above ordinance amendment was introduced on _____, 2023, at a regular meeting of the City Commission and was enacted on _____, 2023, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Richard Lewis, Mayor

Benjamin C. Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____, 2023.

Benjamin C. Marentette, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective Date: _____

TITLE: Chapter 1326: Districts, Boundaries, and Zoning Map

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 1326: Districts, Boundaries and Zoning Map, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

Chapter 1326 Districts, Boundaries and Zoning Map

1326.01 Designation of districts.

The City is divided into the following zoning districts:

OS - Open Space District

RC - Residential Conservation District

R-1a & R-1b - ~~Single-Family Dwelling~~ Low Density Residential Districts

R-2 - ~~Two-Family Dwelling~~ Mixed Density Residential District

R-3 - Multiple Family Dwelling Districts

HR - Hotel Resort District

C-1 - Office Service District

C-2 - Neighborhood Center District

C-3 - Community Center District

C-4 - Regional Center District

D - Development Districts

T - Transportation District

GP - Government/Public District

PR - Planned Redevelopment District

I - Industrial District

NMC-1 & NMC-2 - Northwestern Michigan College Districts

H-1 & H-2 - Hospital Districts

1326.02 Zoning map.

The boundaries of the districts are shown upon the map adopted by the City Commission designated as the Zoning Map. Such Map is filed in the office of the City Clerk. The Zoning Map and all notations, references and other information shown thereon are hereby declared to be a part of this Zoning Code and shall have the same force and effect as if the Zoning Map and all notations, references and other information shown thereon were fully set forth and described herein.

1326.03 Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning Map, the following rules apply:

- (1) If districts are bounded approximately by street, private street or alley lines, the centerline of the street, private street or alley shall be construed to be the boundary of the district.
- (2) If the district boundaries are not indicated and if the property is now or later divided into blocks and lots, the district boundaries shall be construed to be the nearest lot lines.
- (3) In unsubdivided property, the district boundary lines shall be determined by use of the scale appearing on the Zoning Map.

1326.04 Zoning of streets, alleys and railroad corridors.

Streets, alleys and railroad corridors shall be zoned the same as the adjacent land is zoned to the centerline. In addition, they may be used for customary and incidental transportation purposes including commercial transportation such as taxicabs.

1326.05 Zoning of vacated streets.

Whenever any street, alley or other public way is vacated by official action, the zoning district adjoining the side of such street, alley or public way shall be automatically extended to the new property line resulting from such vacation. All area included in the vacation shall thereafter be subject to all appropriate regulations of the extended district.

1326.06 Zoning of water areas.

All areas in the City which are under water and not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins 2 or more districts, the boundaries of each district shall be construed to extend to the center of the water area.

1326.07 Zoning of annexed land.

The zoning of annexed land is governed by state statute. MCL 117.4(i)(3); MSA 5.2082.

1326.08 Categories within zoning districts.

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. In order to insure all possible benefits and protection for the zoning districts in this Code, the land uses have been classified into 3 categories:

- (1) *Uses permitted by right.* The primary uses and structures specified for which the zoning district has been established.

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- (2) *Uses permitted by special use permit.* Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zoning district, but could present potential injurious effects upon the primary uses and structures within the zoning district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole.
 - (3) *Uses permitted by planned unit development.* Uses and structures, compatible with the primary uses and structures within the zoning district, and which are provided a heightened degree of flexibility in site development standards to encourage mixed uses, open space preservation, and preservation of natural resources or energy conservation.

1326.09 Incorporating uses allowed.

When the regulations of a zoning district incorporate the uses allowed in a different zoning district, only those uses listed in the section entitled "Uses Allowed" are incorporated and not any of those uses allowed by special land use permit or any other special zoning permission.

The effective date of this Ordinance is the _____ day of _____, 2023.

I hereby certify the above ordinance amendment was introduced on _____, 2023, at a regular meeting of the City Commission and was enacted on _____, 202, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Richard Lewis, Mayor

Benjamin C. Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____, 2023.

Benjamin C. Marentette, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective Date: _____

TITLE: Chapter 1332: R-1a and R-1b Single-Family Dwelling Districts

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 1332: R-1a and R-1b Single-Family Dwelling Districts, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

Chapter 1332 R-1a and R-1b - ~~Single-Family Dwelling~~Low Density Residential Districts

~~The Low Density Residential District (R-1a and R-1b) is for the purpose of preserving and maintaining the character of predominately single-family residential neighborhoods while broadening housing choices to include context- and scale-appropriate opportunities in the districts that have been established for residential use.~~

~~The Single-Family Dwelling—Large Lot (R-1a) District is for the purpose of primarily accommodating conventional single family dwellings.~~

~~The Single-Family Dwelling—Small Lot (R-1b) district is for the purpose of accommodating single-family dwellings on small lots.~~

~~Clustering (e.g. single-family attached, zero-lot-line detached dwellings) may be allowed in either district on larger parcels within the designated density guidelines as a means to protect sensitive soils and provide usable open space.~~

1332.01 Uses allowed.

The following uses of land and buildings, together with accessory uses, are allowed in the Single-Family districts:

- Accessory Dwelling Units.
 - (1) ~~The intent of the allowed use of accessory dwelling units is to:~~
 - (a) ~~Preserve and maintain the character of predominately single-family residential neighborhoods while broadening housing choices.~~
 - (b) ~~Require owner-occupancy to provide the necessary on-site supervision that enhances maintenance and the preservation of the character of the City's single-family neighborhoods.~~
 - (c) ~~Prevent disruption in the stability of the single-family neighborhoods, speculation and absentee ownership.~~
 - (d) ~~Diversify housing options and create more affordable housing within existing single-family neighborhoods.~~
 - (e) ~~Enhance neighborhood stability by providing extra income that potentially could allow homeowners to live in their houses longer and maintain their property better.~~

~~(f) Provide homeowners with a means of accommodating extended families, companionship, security, or services through tenants in either the accessory dwelling unit or principal dwelling.~~

~~(g) Will be placed in a manner to provide thoughtful consideration of landscaping, screening and window placement to protect the privacy of neighbors.~~

~~(2)~~(1) Accessory dwelling units are an allowed use provided they meet the following requirements:

(a) The existing site and use are substantially in compliance with this Zoning Code.

~~(b) There shall be a maximum limit of 15 newly registered accessory dwelling units per calendar year.~~

~~(c)~~(b) Only 1 accessory dwelling unit per parcel is allowed with a maximum of 2 dwellings per parcel if accessory to a single-family dwelling, or 3 dwellings per parcel if accessory to a duplex dwelling.

~~(d)~~(c) The accessory dwelling unit is clearly incidental to the principal dwelling unit and the structures' exterior appear to be single-family.

~~(e)~~(d) *Location of entrances.* Only 1 entrance may be located on the façade of the primary dwelling facing the street, unless the primary dwelling contained additional entrances before the accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.

~~(f)~~(e) *Exterior stairs.* Fire escapes for access to an upper level accessory dwelling shall not be located on the front of the primary dwelling. Interior stair floor area will not count in the size calculation of the accessory dwelling unit.

~~(g)~~(f) Individual site plans, floor plans, elevation drawings, building plans for the proposed accessory dwelling unit shall be submitted with the application for a land use permit. If exterior modifications are made after a land use permit is issued, revisions must be reviewed and approved by the Zoning Administrator.

~~(h)~~(g) The accessory dwelling unit incorporated in the principal dwelling may be no more than 800 square feet or the size of the principal dwelling, whichever is less. A unit in an accessory building may not exceed 800 square feet and must meet all the requirements of Section 1332.07.

~~(i) At least 1 owner of record shall occupy either the primary dwelling unit or the accessory dwelling unit. The owner occupant shall meet the requirements for a principal residence tax exemption.~~

~~(j)~~(h) The accessory dwelling unit shall obtain a registration from the City Clerk annually.

- i. An owner desiring an accessory dwelling unit on their property is required to make written application to register with the City Clerk. The City Clerk shall provide forms for applications.

The applicant shall truthfully state, in full, the information requested on the application, including:

- (1) The applicant's name, telephone number, address of present place of residence, length of residence at such address;
- (2) Affidavit verifying applicant applies consent and understands that accessory dwelling units are subject to the conditions contained in this Ordinance section, in addition to conditions contained elsewhere in these Codified Ordinances.

- ii. A registration obtained under this section shall not relieve any person of the responsibility for obtaining any other permit, license or authorization required by another ordinance, statute or administrative rule.
- iii. Administration and enforcement shall be the responsibility of the Zoning Administrator per Section 1322.04.
- iv. Complaints. If a written complaint is made alleging that an accessory dwelling unit has violated any provisions of this chapter, the Zoning Administrator shall promptly forward the written complaint to the accessory dwelling unit owner together with a notice that an investigation will be made as to the truth of the complaint. The accessory dwelling unit owner may respond to the complaint and present evidence and respond to evidence produced by the investigation. If the Zoning Administrator determines that the accessory dwelling unit is in violation, the City may enforce these provisions by any means available under the law.
- v. Penalty per Section 202.99.
- vi. Fee. A non-refundable registration fee shall be established by the City Commission.

~~(k)~~(i) The accessory dwelling unit shall not be leased for a period of less than 3 months at a time. Upon request of the City, the owner of record shall provide a lease agreement evidencing the length of the lease.

~~(j)~~(j) Each registered ~~a~~Accessory ~~D~~dwelling ~~U~~unit is subject to annual administrative review by the City. Registrant shall provide additional information as requested by the City.

~~(m)~~(k) An accessory dwelling unit shall be prohibited if the parcel has a licensed Tourist Home.

- Adult foster care family home;
- Athletic fields;
- Boat houses if they are an accessory use, if they are designed for housing a boat, if provisions are made for routing of any boardwalk, and if proper state and federal permits are obtained;
- Child care organization, as defined by MCL 722.111 et seq., as amended, associated with a school or place of worship;
- Community Gardens;
- Dwellings, single-family;
- Dwellings, duplex;
- Essential services;
- Family child care home, as defined by MCL 722.111 et seq., as amended;
- Golf courses;
- Group child care home, as defined by MCL 722.111 et seq., as amended, subject to the following conditions:
 - (1) All necessary licenses are obtained and maintained. Expiration or revocation of a license automatically terminates the land use permit and a change in the licensee requires a land use permit renewal.
 - (2) The lot is not located within 150 feet of another lot devoted to such use. The distances required shall be measured along any private or public street.
 - (3) A fenced outside recreation area shall be located on premise where it will most effectively shield neighboring properties from noise and visual disruptions. Play equipment shall not be placed streetward of the principal structure unless specifically allowed by the Planning Commission for unique circumstance.

-
- (4) The use does not exceed 16 hours of operation during a 24-hour period.
 - (5) No additional parking is required for the ~~Group-group Day-child Care-care Home-home~~ provided on-street parking is allowed adjacent to the property. If on-street parking is not allowed, 2 parking spaces shall be provided on premise.
 - (6) A Group child care home requires the issuance of a Land Use Permit. As part of the application, a site plan shall be submitted showing the designated outside play area, primary drop off/pick up entrance and parking spaces.
 - Home occupations subject to the following conditions:
 - (1) A home occupation shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.
 - (2) All business activity and storage shall take place within the interior of the dwelling and/or accessory building.
 - (3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (4) The home occupation shall not generate vehicular traffic beyond 8 trip-ends per day.
 - (5) Only off-street parking facilities customary for a residential use and located on the premises may be used.
 - (7) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
 - (8) Home occupations shall be conducted solely by persons residing at the residence, and no more than 2 such persons shall be employed in the home occupation.
 - (9) Any sign identifying the occupation must conform to the regulations of Traverse City Code Chapter 1476, Signs.
 - (10) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
 - (11) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
 - (12) The use shall not generate noise, vibration or odors detectible beyond the property line.
 - Playgrounds;
 - Tourist homes meeting the following requirements:
 - (1) Rooms utilized for sleeping shall be part of the primary residential structure and shall not be specifically constructed or remodeled for rental purposes.
 - (2) There are two levels of tourist homes and are separated based on intensity:
 - (a) A high intensity tourist home may rent up to 3 rooms for compensation, limited to not more than 2 adults per room, to persons who do not stay for more than 14 consecutive days for 85 or greater guest nights per year. A high intensity tourist home shall not be closer than 1,000 feet to another licensed high intensity tourist home or another tourist home licensed before January 22, 2019.
 - (b) A low intensity tourist home may rent not more than 2 rooms for compensation, limited to not more than 2 adults per room, to persons who do not stay for more than 14 consecutive days for no greater than 84 guest nights per year.
 - (3) The exterior appearance of the structure shall not be altered from its single-family character.
 - (4) There shall be no separate or additional kitchen facility for the guests.

- (5) Off-street parking shall be provided as required by this Zoning Code and shall be developed in such a manner that the residential character of the property is preserved. For each tourist home bedroom, one off-street parking space is required.
- (6) A site plan is approved according to the Zoning Code. Certain site plan information may be waived at the discretion of the Planning Director.
- (7) A City tourist home license is maintained.
- (8) A tourist home shall be an incidental and secondary use of a dwelling unit for business purposes. The intent of this provision is to ensure compatibility of such business use with other permitted uses of the residential districts and with the residential character of the neighborhoods involved, and to ensure that tourist homes are clearly secondary and incidental uses of residential buildings.
- (9) A tourist home shall be prohibited if the parcel is a registered accessory dwelling unit.
- (10) A person who violates any provision of this use is responsible for a municipal civil infraction. The fine for any unlawful tourist home violation shall be no less than \$500.00, plus costs. Each day on which any violation of the use continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

1332.02 Uses allowed by special land use permit.

The following uses of land and buildings, together with accessory uses, are allowed in the single-family districts if a special land use permit is issued according to the standards of this chapter:

- Adult foster care small group home;
- Clustered single-family dwellings;
- ~~Conversions of one-family dwellings to two-family dwellings;~~
- Essential services buildings;
- Places of worship;
- Schools;
- Temporary accessory dwelling units.

1332.03 Lot, density and impervious surface provisions.

Lot width (min.)	Lot area (min.)	Density (maximum)	Impervious surface
R-1a: 90-70 feet	9,000 <u>7,000</u> sq. feet	1 <u>2</u> ²¹	30 <u>35</u> % maximum
R-1b: 35/45 feet [‡]	5,000 <u>4,000</u> sq. feet	1 <u>2</u> ²¹	45 <u>50</u> % maximum

~~[‡]The minimum lot width for parcels located north or east of the US31/M-72, east of Milliken Drive and south of Eastern Ave are 45 feet.~~

²¹An accessory dwelling unit may be permitted in R-1a and R-1b which if permitted, would increase the allowed density maximum to 2 dwellings per parcel if accessory to a single-family dwelling, or 3 dwellings per parcel if accessory to a duplex dwelling.

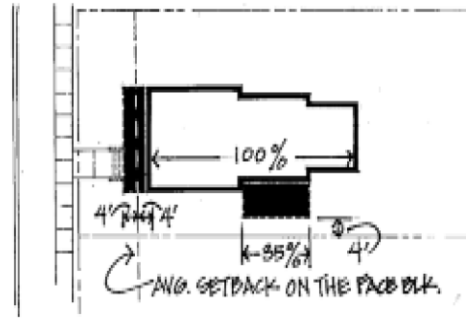
1332.04 Setbacks.

(a) *Front setbacks:*

Building:

R-1a: 25 feet minimum.

R-1b: Within 4 feet of the average setback of principal buildings on the same face block, but no closer than 6 feet from the front property line.



Parking area:

R-1a: 3 feet minimum.

R-1b: 3 feet minimum.

(b) *Side setbacks (minimum):*

Building:	One side	Aggregate
<i>R-1a:</i>	8 feet	20 feet
<i>R-1b:</i>	6 feet*	14 feet

*35% of a building side wall may be located no closer than 4 feet from the side property line.

Parking area: 2 feet

(c) *Rear setbacks (minimum):*

Building: R-1a: 30 feet *R-1b:* 25 feet

Parking area: None.

(d) *Through lots and corner lots* having a frontage on 2 streets shall provide the required front setback on both streets.

(e) *Water setbacks:* 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of Boardman River. 25 feet from the ordinary high water mark of Kids Creek, or the centerline of the creek when buried or below grade. The Planning Director may reduce the Kids Creek setback up to a minimum of 10 feet if it is determined that the site is otherwise unbuildable.

(f) *Storage* of a boat, motor home, camper, utility trailer or other recreational vehicle or equipment is limited to the rear yard only. Storage shall mean parking the vehicle or equipment in an area unused for the purpose for which it was designed for a period of 30 consecutive days or more.

1332.05 Encroachments into the setbacks.

No encroachments into the required setbacks are allowed except:

- (1) Eaves, chimneys, sills, belt courses, cornices and ornamental features not to exceed 18 inches are permitted to extend within the setbacks.
- (2) Terraces, patios, decks, uncovered and unenclosed porches and other ornamental features which do not extend more than 30 inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than 2 feet from the subject side property line.
- (3) An unenclosed balcony, porch or deck may project into a rear setback for a distance not exceeding 10 feet.
- (4) An unenclosed balcony or porch may project into a front setback not more than 8 feet from the exterior building line, but not closer than 6 feet from the front property line.
- (5) If there is no feasible alternative, the Planning Director may approve a setback variation up to fifty percent of the requirement for the front and rear setback when a required setback would necessitate the removal of an existing tree greater than or equal to 6 inches diameter at breast height. Any existing tree that is preserved by the approved variation must be protected and remain for at least five years from the date of the variation.

1332.06 Building height.

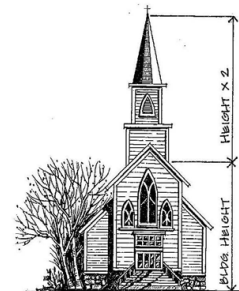
- (a) *Building height (both districts):*

Maximum 35 feet.

- (b) *Exceptions:*

Steeples and clock towers may be erected to a height not exceeding twice the height of the attached building.

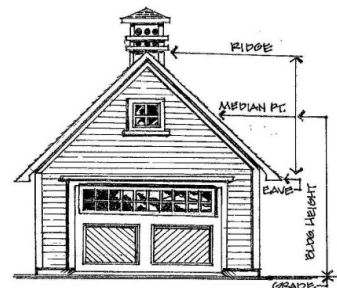
Parapet walls may be used to screen existing equipment may be erected if the wall extends ~~extends~~ around the perimeter of the building and incorporates exterior building materials similar to those of the main building.



1332.07 Accessory buildings.

Accessory buildings shall:

- (1) Only be permitted in the rear yard except accessory buildings may be located streetward on lots on navigable water and may be located streetward of the principal building on the less traveled street on through lots.
- (2) Not exceed 25 feet or the height of the principal building, whichever is less.
- (3) Not be closer than 4 feet to any side or rear property line. A boat house up to 250 square feet in gross floor area may be built to the water's edge.



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- (4) Have a total gross floor area of all accessory buildings on the lot shall not exceed the greater than of 75 percent of the gross floor area of the principal building or 484 square feet.
 - (5) Accessory buildings over 200 square feet in gross floor area, shall be constructed using building materials, design elements and roof pitches substantially similar to the exterior of the principal building.
 - (6) For parcels on corner lots, except in the Boardman and Central Neighborhood Historic Districts, an accessory building can be connected to the principal building provided the connector is no longer than 10 feet in length, no taller than 15 feet in height, and the area of the connector does not exceed 100 square feet. The connector area shall be applied to the gross floor area of the accessory building.

1332.08 Parking, loading and driveways.

~~Minimum parking space requirements for single family dwellings are 1 per dwelling unit.~~

- (1) Additional requirements for parking, loading and driveways are contained in Chapter 1374.
- (2) Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area be located in the front yard.
- (3) For parcels having alley access, the parking of a boat, motor home, camper, utility trailer or other recreational vehicle is limited to the rear yard.
- ~~Any parking area for single or two family residential use shall, at a minimum, be surfaced and the area clearly defined with gravel, crushed stone, concrete, asphalt, brick or equal material, and be maintained substantially free of dust, mud and standing water.~~
- (4) Parking for motor vehicles shall occur only on a surface permitted by this code.
- (5) In addition, athletic fields may provide up to 50 percent of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing 1 parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

1332.09 Special requirements.

To preserve and reinforce the development patterns of the single-family dwelling district the following special requirements shall apply:

- (1) In the Boardman and Central Neighborhood Historic Districts, attached garages for parcels with alley access shall be prohibited.

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- (2) In the Boardman and Central Neighborhood Historic Districts, the distance between dwellings and accessory buildings greater than 200 square feet that have alley access shall not be less than 30 feet. The 30-foot separation between dwellings and accessory buildings can be reduced to 20 feet if it is determined to be impractical by the Planning Director.

1332.10 Two principal dwelling requirements

Two separate dwelling structures may be allowed on parcels that are twice the minimum lot size for their district without requiring the parcel to be split provided the following requirements are met:

- (1) Side setbacks shall be maintained between adjacent principal dwellings as required by the district if sited adjacent to each other.
- (2) All rear setbacks applicable to principal dwelling structures shall be met.

The effective date of this Ordinance is the _____ day of _____, 2023.

I hereby certify the above ordinance amendment was introduced on _____, 2023, at a regular meeting of the City Commission and was enacted on _____, 2023, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Richard Lewis, Mayor

Benjamin C. Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____, 2023.

Benjamin C. Marentette, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective Date: _____

TITLE: Chapter 1334: R-2 Two-Family Dwelling District

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 1334: R-2 Two-Family Dwelling District, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

Chapter 1334 R-2 ~~Two-Family Dwelling~~Mixed Density Residential District

The ~~Two-Family Dwelling~~Mixed Density Residential (R-2) District is for the purpose of allowing ~~two-family~~up to four dwellings ~~units per parcel~~, designed to be architecturally compatible with surrounding housing.

1334.01 Uses allowed.

The following uses of land and buildings, together with accessory uses, are allowed in the ~~Two-Family Dwelling~~Mixed Density Residential District:

- R-1 District Uses;
- Accessory Dwelling Units, accessory to a single family, duplex or triplex principal dwelling unit;
- ~~Accessory dwelling units are an allowed use provided they meet the following requirements:~~
 - ~~(a) The existing site and use are substantially in compliance with this Zoning Code.~~
 - ~~(b) Only 1 accessory dwelling unit per parcel is allowed with a maximum of 2 dwellings per parcel.~~
 - ~~(c) The accessory dwelling unit is clearly incidental to the principal dwelling unit and the structures' exterior appear to be single family.~~
 - ~~(d) Location of entrances. Only 1 entrance may be located on the façade of the primary dwelling facing the street, unless the primary dwelling contained additional entrances before the accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.~~
 - ~~(e) Exterior stairs. Fire escapes for access to an upper level accessory dwelling shall not be located on the front of the primary dwelling. Interior stair floor area will not count in the size calculation of the accessory dwelling unit.~~
 - ~~(f) Individual site plans, floor plans, elevation drawings, building plans for the proposed accessory dwelling unit shall be submitted with the application for a land use permit. If~~

~~exterior modifications are made after a land use permit is issued, revisions must be reviewed and approved by the Zoning Administrator.~~

- ~~(g) The accessory dwelling unit incorporated in the principal dwelling may be no more than 800 square feet or the size of the principal dwelling, whichever is less. A unit in an accessory building may not exceed 800 square feet and must meet all the requirements of Section 1334.07.~~
- ~~(h) At least 1 owner of record shall occupy either the primary dwelling unit or the accessory dwelling unit. The owner occupant shall meet the requirements for a principal residence tax exemption.~~
- ~~(i) The accessory dwelling unit shall obtain a registration from the City Clerk annually.
 - ~~i. An owner desiring an accessory dwelling unit on their property is required to make written application to register with the City Clerk. The City Clerk shall provide forms for applications.~~~~

~~The applicant shall truthfully state, in full, the information requested on the application, including:~~

- ~~(1) The applicant's name, telephone number, address of present place of residence, length of residence at such address;~~
- ~~(2) Affidavit verifying applicant applies consent and understands that accessory dwelling units are subject to the conditions contained in this Ordinance section, in addition to conditions contained elsewhere in these Codified Ordinances.~~
- ~~ii. A registration obtained under this section shall not relieve any person of the responsibility for obtaining any other permit, license or authorization required by another ordinance, statute or administrative rule.~~
- ~~iii. Administration and enforcement shall be the responsibility of the Zoning Administrator per Section 1322.04.~~
- ~~iv. Complaints. If a written complaint is made alleging that an accessory dwelling unit has violated any provisions of this chapter, the Zoning Administrator shall promptly forward the written complaint to the accessory dwelling unit owner together with a notice that an investigation will be made as to the truth of the complaint. The accessory dwelling unit owner may respond to the complaint and present evidence and respond to evidence produced by the investigation. If the Zoning Administrator determines that the accessory dwelling unit is in violation, the City may enforce these provisions by any means available under the law.~~
- ~~v. Penalty per Section 202.99.~~
- ~~vi. Fee. A non-refundable registration fee shall be established by the City Commission.~~
- ~~(j) The accessory dwelling unit shall not be leased for a period of less than 3 months at a time. Upon request of the City, the owner of record shall provide a lease agreement evidencing the length of the lease.~~

-
- ~~(k) Each registered Accessory Dwelling Unit is subject to annual administrative review by the City. Registrant shall provide additional information as requested by the City.~~
 - ~~(l) An accessory dwelling unit shall be prohibited if the parcel has a licensed Tourist Home.~~
 - ~~• Adult foster care family home;~~
 - Art galleries in non-residential buildings built prior to 1950, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
 - ~~• Athletic fields;~~
 - ~~• Boat houses if they are an accessory use, if they are designed for housing a boat, if provisions are made for routing of any boardwalk, and if proper state and federal permits are obtained;~~
 - ~~• Child care organization, as defined by MCL 722.111 et seq., as amended, associated with a school or place of worship;~~
 - ~~• Community Gardens;~~
 - ~~• Dwellings, single-family;~~
 - Dwellings, two-family;
 - Dwellings, triplex;
 - Dwellings, quadplex;
 - Dwellings, multiple family, in non-residential buildings built prior to 1950, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
 - ~~• Essential services;~~
 - ~~• Family child care home, as defined by MCL 722.111 et seq., as amended;~~
 - ~~• Golf courses;~~
 - ~~• Group child care home, as defined by MCL 722.111 et seq., as amended, subject to the following conditions:~~
 - ~~(1) All necessary licenses are obtained and maintained. Expiration or revocation of a license automatically terminates the land use permit and a change in the licensee requires a land use permit renewal.~~
 - ~~(2) The lot is not located within 150 feet of another lot devoted to such use. The distances required shall be measured along any private or public street.~~
 - ~~(3) A fenced outside recreation area shall be located on premise where it will most effectively shield neighboring properties from noise and visual disruptions. Play equipment shall not be placed streetward of the principal structure unless specifically allowed by the Planning Commission for unique circumstance.~~
 - ~~(4) The use does not exceed 16 hours of operation during a 24-hour period.~~
 - ~~(5) No additional parking is required for the Group Day Care Home provided on-street parking is allowed adjacent to the property. If on-street parking is not allowed, 2 parking spaces shall be provided on premise.~~
 - ~~(6) A Group child care home requires the issuance of a Land Use Permit. As part of the application, a site plan shall be submitted showing the designated outside play area, primary drop off/pick up entrance and parking spaces.~~
 - ~~• Home occupations subject to the following conditions:~~

-
- ~~(1) A home occupation shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.~~
 - ~~(2) All business activity and storage shall take place within the interior of the dwelling and/or accessory building.~~
 - ~~(3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.~~
 - ~~(4) The home occupation shall not generate vehicular traffic beyond 8 trip-ends per day.~~
 - ~~(5) Only off-street parking facilities customary for a residential use and located on the premises may be used.~~
 - ~~(6) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.~~
 - ~~(7) Home occupations shall be conducted solely by persons residing at the residence, and no more than 2 such persons shall be employed in the home occupation.~~
 - ~~(8) No sign, display or device identifying the occupation may be used.~~
 - ~~(9) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.~~
 - ~~(10) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.~~
 - ~~(11) The use shall not generate noise, vibration or odors detectible beyond the property line.~~
 - Offices in nonresidential buildings built prior to 1950, provided they are located on an arterial or collector street and provided the building is not expanded except as necessary to meet barrier free access requirements.
 - ~~Tourist homes meeting the following requirements:~~
 - ~~(1) Rooms utilized for sleeping shall be part of the primary residential structure and shall not be specifically constructed or remodeled for rental purposes.~~
 - ~~(2) There are 2 levels of tourist homes and are separated based on intensity:
 - ~~a. A high intensity tourist home may rent up to 3 rooms for compensation, limited to not more than 2 adults per room, to persons who do not stay for more than 14 consecutive days for 85 or greater guest nights per year. A high intensity tourist home shall not be closer than 1,000 feet to another licensed high intensity tourist home or another tourist home licensed before January 22, 2019.~~
 - ~~b. A low intensity tourist home may rent not more than 2 rooms for compensation, limited to not more than 2 adults per room, to persons who do not stay for more than 14 consecutive days for no greater than 84 guest nights per year.~~~~
 - ~~(3) The exterior appearance of the structure shall not be altered from its single family character.~~
 - ~~(4) There shall be no separate or additional kitchen facility for the guests.~~
 - ~~(5) Off-street parking shall be provided as required by this Zoning Code and shall be developed in such a manner that the residential character of the property is preserved. For each tourist home bedroom, one off-street parking space is required.~~

~~(6) A site plan is approved according to the Zoning Code. Certain site plan information may be waived at the discretion of the Planning Director.~~

~~(7) A City tourist home license is maintained.~~

~~(8) A tourist home shall be an incidental and secondary use of a dwelling unit for business purposes. The intent of this provision is to ensure compatibility of such business use with other permitted uses of the residential districts and with the residential character of the neighborhoods involved, and to ensure that tourist homes are clearly secondary and incidental uses of residential buildings.~~

~~(9) A tourist home shall be prohibited if the parcel is a registered accessory dwelling unit.~~

~~(10) A person who violates any provision of this use is responsible for a municipal civil infraction. The fine for any unlawful Tourist Home violation shall be no less than \$500.00, plus costs. Each day on which any violation of the use continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.~~

- Other similar uses as approved by the Planning Commission provided:
 - (1) The uses are located on an arterial or collector street.
 - (2) The uses are in a non-residential building built prior to 1950 and the building is not expanded except as necessary to meet barrier-free access requirements.
 - (3) The uses will not generate excessive noise, lighting, fumes or other nuisances.

1334.02 Uses allowed by special land use permit.

The following uses of land and buildings, together with accessory uses, are allowed in the ~~Two-Family Dwelling~~ Mixed Density Residential District if a special land use permit is issued according to the standards of this chapter:

- Adult foster care small group home;
- Clustered single-family dwellings;
- Essential services buildings;
- Places of worship;
- Schools.

1334.03 Lot, density and impervious surface provisions.

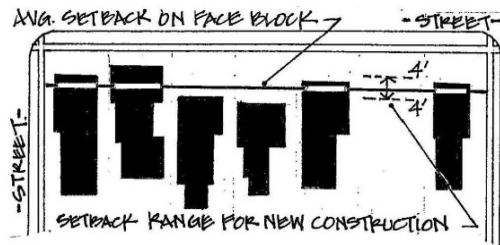
Lot width (min.)	Lot area (min.)	Density (maximum)	Impervious surface
35 feet	4,000 sq. feet	2-4	45 50% maximum

1334.04 Setbacks.

(a) *Front setbacks:*

Building: Within 4 feet of the average setback of principal buildings on the same face block but no closer ~~that~~ than 6 feet from the front property line.

Parking area: 3 feet minimum.



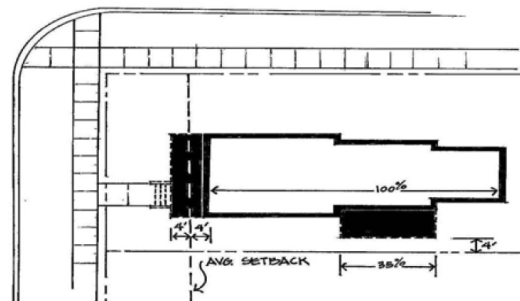
(b) *Side setbacks (minimum):*

Building:

One Side: 6 feet

Aggregate: 14 feet 35 percent of a side building wall may be located no closer than 4 feet from the side property line.

Parking area: 2 feet



(c) *Rear setbacks:*

Building: 25 feet

Parking area: None

(d) *Corner and through lots* shall have a front setback on each street.

(e) *Water setbacks:* 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of the Boardman River. 25 feet from the ordinary high water mark of Kids Creek, or the centerline of the creek when buried or below grade. The Planning Director may reduce the Kids Creek setback up to a minimum of 10 feet if it is determined that the site is otherwise unbuildable.

(f) *Storage* of a boat, motor home, camper, utility trailer or other recreational vehicle or equipment is limited to the rear yard only. Storage means parking the vehicle or equipment in an area unused for the purpose for which it was designed for a period of 30 consecutive days or more.

1334.05 Encroachments into the setbacks.

No encroachments into required setbacks are allowed except:

- (1) Eaves, chimneys, sills, belt courses, cornices and ornamental features not to exceed 18 inches are permitted to extend within the setback.
- (2) Terraces, patios, decks, uncovered and unenclosed porches and other ornamental features which do not extend more than 30 inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than 2 feet from the subject side property line.
- (3) An unenclosed balcony or porch may project into a front setback not more than 8 feet from the exterior building line, but not closer than 6 feet from the front right-of-way line.
- (4) If there is no feasible alternative, the Planning Director may approve a setback variation up to fifty percent of the requirement for the front and rear setback when a required setback would necessitate the removal of an existing tree greater than or equal to 6 inches diameter at breast height. Any existing tree that is preserved by an approved variation must be protected and remain for at least five years from the date of the variation.

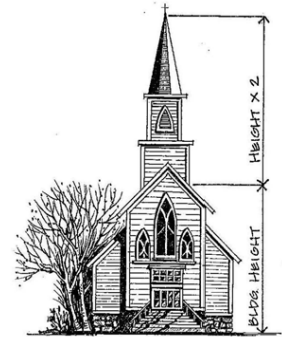
1334.06 Building height.

- (a) *Building height:* Maximum 35 feet.

- (b) *Exceptions:*

Steeples and clock towers may be erected to a height not exceeding twice the height of the attached building.

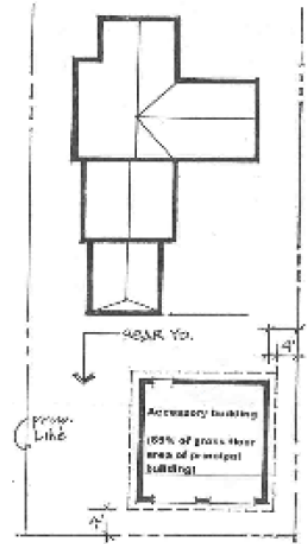
Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.



1334.07 Accessory buildings.

Accessory buildings shall:

- (1) Only be permitted in the rear yard, except accessory buildings may be located streetward on lots on navigable water and may be located streetward of the principal building on the less traveled street on through lots.
- (2) Not exceed 25 feet or the height of the principal building(s) at the median point, whichever is less.
- (3) Not be closer than 4 feet to any side or rear property line. A boat house up to 250 square feet in gross floor area may be built to the water's edge.
- (4) Have a total gross floor area of all accessory buildings on the lot shall not exceed the greater of 75 percent of the gross floor area of the principal building(s) or 484 square feet.
- (5) Accessory buildings over 200 square feet in gross floor area, shall be constructed using building materials, design elements and roof pitches substantially similar to the exterior of the principal building.
- (6) For parcels on corner lots, except in the Boardman and Central Neighborhood Historic Districts, an accessory building can be connected to the principal building provided the connector is no longer than 10 feet in length, no taller than 15 feet in height, and the area of the connector does not exceed 100 square feet. The connector area shall be applied to the gross floor area of the accessory building.



1334.08 Parking, loading and driveways.

~~Minimum parking space requirements are 1 per dwelling unit.~~

(1) Additional requirements for parking, loading and driveways are contained in Chapter 1374.

(2) Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area be located in the front yard.

(3) For parcels having alley access, the parking of a boat, motor home, camper, utility trailer or other recreational vehicle is limited to the rear yard.

~~Any parking area for single or two-family residential use shall, at a minimum, be surfaced and the area clearly defined with gravel, crushed stone, concrete, asphalt, brick or equal material, and be maintained substantially free of dust, mud and standing water.~~

(4) Parking for motor vehicles shall occur only on a surface permitted by this code.

(5) Athletic fields may provide up to 50 percent of the required number of organized parking on an area developed in turf grasses. Grassed parking areas shall be considered as providing 1 parking space for every 350 square feet of continuous turf-covered area. All grassed parking

areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

1334.09 Special requirements.

To preserve and reinforce the development patterns of the ~~Two-Family Dwelling~~Mixed Density Residential District the following special requirements shall apply:

- (1) In the Boardman and Central Neighborhood Historic Districts, attached garages for parcels with alley access shall be prohibited.
- (2) In the Boardman and Central Neighborhood Historic Districts, the distance between dwellings and accessory buildings greater than 200 square feet that have alley access shall not be less than 30 feet. The 30 foot separation between dwellings and accessory buildings can be reduced to 20 feet if it is determined to be impractical by the Planning Director.

The effective date of this Ordinance is the _____ day of _____, 2023.

I hereby certify the above ordinance amendment was introduced on _____, 2023, at a regular meeting of the City Commission and was enacted on _____, 2023, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Richard Lewis, Mayor

Benjamin C. Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____, 2023.

Benjamin C. Marentette, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Chapter 1364: Special Land Use Regulations

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 1364: Special Land Use Regulations, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

Chapter 1326 Special Land Use Regulations

The purpose of this chapter is to permit and provide for a special review process for unique uses and activities in zoning districts where they would not otherwise be permitted, provided these uses and activities are made compatible with permitted uses in these districts by following the standards in this chapter.

1364.01 Types of special land use permit review.

- (1) *Types of procedure.* Special land use permits (SLUPs) are reviewed and approved through either a City Commission procedure or an administrative procedure depending upon the potential impact the proposed use or activity may have upon the adjacent land uses and the broader community.
- (2) *City commission SLUPs.* Applications for special land use permits for the following uses shall be reviewed by the City Commission according to the procedures and standards contained in this chapter:
 - (1) *New buildings 3,000 square feet or larger in gross floor area* for allowed uses in an OS or RC district.
 - ~~(2)(1) *Clustered single family dwellings allowed in an R-1a, R-1b or R-2 district.*~~
 - ~~(3)(2) *Communication towers* allowed in a T, GP, I, C-3, NMC-2 (except on Grand Traverse Bay) and H-2 District or properties owned by governmental agencies.~~
 - ~~(4)(3) *Convention centers* in a D district.~~
 - ~~(5)(4) *Conversions of one-family to two-family dwellings* in an R-1a or R-1b district.~~
 - ~~(6)(5) *Correctional institutions* allowed in a GP district.~~
 - ~~(7)(6) *Drive-throughs for finance services* in C-4 and D districts.~~
 - ~~(8)(7) *Essential services structures.*~~
 - ~~(9)(8) *Reserved.*~~
 - ~~(10)(9) *Residential care and treatment facilities* allowed in an ~~R-9, R-15, R-29~~R-3, HR, C-1, C-2, C-3 or H-1 or H-2 district.~~

~~(11)~~(10) Schools allowed in an R-1a, R-1b, R-2, ~~R-9, R-15, R-29~~R-3, C-1, C-2, C-3 or GP district.

~~(12)~~(11) Stores, retail, over 8,000 square feet per floor in a D district.

~~(13)~~(12) Taller buildings allowed in a C-4b, C-4c, D, GP, NMC-2 or H-2 district.

~~(14)~~(13) Temporary accessory dwelling units in an RC, R-1a or R-1b district.

~~(15)~~(14) Theaters, live, and performance art centers allowed in an ~~R-9, R-15 or R-29~~R-3, Multiple Family Dwelling District.

~~(16)~~(15) Transitional housing and emergency shelters allowed in an HR, C-1, C-2, C-3, D-1, D-2, D-3, H-1, H-2, I, NMC-1 or NMC-2 district.

~~(17)~~(16) Wind energy system, pole or tower-mounted, allowed in T, GP, C-3, NMC-1, NMC-2, H-1, H-2 or I district and properties owned by governmental agencies.

~~(18)~~(17) Wind energy system, building-mounted, allowed in NMC-1, NMC-2, I, T, H-1, H-2, C-1, C-2, C-3, C-4, D and HR districts.

(3) *Administrative special land use permits.* Applications for special land use permits for the following uses shall be reviewed by the Planning Director according to the procedures and standards contained in this chapter:

(1) *Adult foster care small group home* in an RC, R-1a, R-1b and R-2 district.

(2) *Clustered single-family dwellings* allowed in an R-1a, R-1b or R-2 district.

~~(2)~~(1) Communication antennas in all districts.

~~(3)~~(2) Group day care homes, including adult daycare in an R-1a, R-1b, R-2, ~~R-9, R-15 and R-29~~and R-3 district.

~~(4)~~(3) Landing areas in an H or GP district.

~~(5)~~(4) Parking area, private, in a C-4 district if public parking is available within 500 feet of an allowed use;

~~(6)~~(5) Parking area construction deferral.

~~(7)~~(6) Places of worship in an R-1a, R-1b, R-2, ~~R-9, R-15 and R-29~~and R-3 district.

1364.02 General standards for approval.

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, waste water, and storm sewer facilities; electrical service, and schools.
- (4) The use shall not create excessive additional requirements for infrastructure, facilities, and services provided at public 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) Where possible, the use shall preserve, renovate and restore historic buildings or landmarks affected by the development. If the historic structure must be moved from the site, the relocation shall be subject to the standards of this section.
- (7) Elements shall relate the design characteristics of an individual structure or development to existing or planned developments in a harmonious manner, resulting in a coherent overall development pattern and streetscape.
- (8) The use shall be consistent with the intent and purposes of the zoning district in which it is proposed.

1364.03 Special land use applications.

All land for which an application for a special land use permit is made shall be owned by the applicant or by a person who has consented, in writing, to the application. The parcel must be capable of being planned and developed as 1 integral land use unit. Noncontiguous parcels may be considered. The application must be signed by the applicant and by the owner or a person with the owner's written consent and must contain:

- (1) A site plan as described by this Zoning Code;
- (2) A statement of present ownership of all land which is the subject of the request;
- (3) An application fee. This application fee shall be non-refundable. The City Commission shall, by resolution, establish the amount of the application fee.
- (4) Upon the request of the Planning Director or the Planning Commission, the applicant shall provide such other information pertinent to the special land use application. Failure of the applicant to provide such requested information within a reasonable time may be grounds for denial of the application.
- (5) If the application is approved, the applicants shall pay all Register of Deeds recording fees to record the special land use permit.

1364.04 City commission procedure for approval.

The following procedures shall be followed for special land use permits to be granted by the City Commission:

- (1) *Pre-application conference.* Before submitting an application, the applicant shall meet with the Planning Director to review the proposed project, the Traverse City Code of Ordinances, and any planning documents that relate to the property.
- (2) *Application.* A special land use permit application shall be submitted to the Planning Commission for review and recommendation.
- (3) *Public hearings.*
 - a. The Planning Commission shall hold a public hearing with such notice as it deems advisable. After review, the Planning Commission shall submit a written recommendation to the City Commission based upon the standards of this Zoning Code.

- b. A public hearing shall be held by the City Commission on each special land use application properly filed under this Zoning Code. Notice of the public hearing shall be given not less than 15 days before the date of the public hearing. Notice shall be published in a newspaper of general circulation in the City and shall be mailed or personally delivered to:
 1. The owners of the property for which approval is being considered;
 2. All persons to whom real property is assessed within 300 feet of the boundary of the property in question; and
 3. 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. The occupants of all structures within 300 feet of the boundary of the property in question. Where the name of the occupant is not known, 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.
- (4) *Notice.* The notice of the City Commission 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.
- (5) *Decision.* The City Commission 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 City Commission shall be final. There shall be no appeal of the City Commission's decision to the Board of Zoning Appeals.
- (6) *Order.* If the City Commission determines that the application is consistent with the intent of this Zoning Code 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 Code, and containing any lawful conditions or restrictions which it may consider necessary to carry out the purposes of this Zoning Code 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.
- (7) *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 Code which would apply if the special land use order had not been issued.

Editor's note(s)—For "taller buildings," which are those buildings greater than sixty (60) feet in height, see City Charter § 28Editor's note(s)— for additional requirements.

1364.05 Administrative procedure for approval.

The following procedure shall be followed for special land use permits to be granted by the Planning Director:

- (1) *Pre-application conference.* Before submitting an application, the applicant shall meet with the Planning Director to review the proposed project, the Traverse City Code of Ordinances, and any planning documents that relate to the property.
- (2) *Application.* A special land use application shall be submitted to the Planning Director for review and decision.
- (3) *Notice.* If the applicant or the Planning Director requests a public hearing, only notification of the public hearing need be made. If not so requested, upon receipt of an application, the Planning Director shall publish in a newspaper of general circulation in the City 1 notice that the request has been received and shall send by mail or personal delivery such notice to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Such notice shall be given not less than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in notification. Notification need not be given to more than 1 occupant of a structure unless there is more than 1 dwelling unit, in which case 1 occupant of each unit shall be given notice. Such notice shall do the following:
 - a. Describe the nature of the special land use request;
 - b. Indicate the property which is the subject of the special land use request;
 - c. State when and where the special land use request will be considered and;
 - d. Indicate when and where comments will be received concerning the request;
 - e. Indicate that a public hearing on a special land use request may be requested by a property owner or occupant of a structure located within 300 feet of the boundary of property being considered for a special use.
- (4) *Public hearing.* At the initiative of the Planning Director, upon the request of the applicant, or upon request of a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required herein shall be held by the Planning Director before rendering a decision.
- (5) *Decision; order.* The Planning Director may deny, approve or approve with conditions, requests for special land use approval after notification as provided in this section. The 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.

- (6) *Appeals to the planning commission.* Any person aggrieved by a final decision of the Planning Director may appeal the decision within 14 days to the Planning Commission. In order to file such an appeal, a person must complete and sign an application for appeal and submit it to the Planning Director on the form provided by that office. In addition, the person appealing must pay the fee established by resolution of the City Commission for such appeals. All reasons and facts in support of the appeal shall be submitted in writing by the person appealing. The Planning Director shall transmit to the Planning Commission all materials submitted in connection with the application including the written decision being appealed and a summary of public comments. Notice of the Planning Commission hearing shall be given in the same manner as notice of a hearing on a special land use granted by the Planning Commission. After a hearing de novo, the Planning Commission shall decide the appeal de novo within a reasonable time and shall submit its decision in writing to the applicant. A decision of the Planning Commission shall be final. There shall be no appeal of the Planning Commission's decision to the City Commission or Board of Zoning Appeals.
- (7) *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 Code which would apply if the special land use order had not been issued.
- (8) *Planning director referral to planning commission.* At the discretion of the Planning Director, a special land use requiring administrative approval of the Planning Director may be submitted to the Planning Commission under procedures described in Section 1364.04

1364.06 Amendments.

A SLUP order may be amended as follows:

- (1) *Minor amendment.* Minor amendments are those which will have no foreseeable effect beyond the property boundary, such as minor changes in the siting of buildings, the alignment of utilities and the alignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Planning Director without notice or hearing, provided no such changes shall significantly increase the size or height of structures, significantly reduce the efficiency or number of public facilities serving the site, significantly reduce the usable open space or significantly encroach on natural features proposed by the plan to be protected.
- (2) *Major amendment.* Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the authority granting the SLUP to be amended according to the procedures authorized by this chapter for approval of a SLUP.

Unless otherwise provided by this chapter or the granting order, an order approving a special land use may be amended by the granting authority according to the procedures authorized by this chapter for approval of a special land use.

1364.07 Termination of orders.

A special land use order shall expire 2 years from the date of final approval if the applicant has not commenced substantial construction and is not diligently proceeding to completion or, where no construction is necessary, if the use authorized has not been commenced. Upon written request stating the reasons therefor, the granting authority may extend the order for 1 additional year. An order may be terminated upon application by the owners of record of the land subject to a granting order. It shall

be submitted and considered under the same process as is then established for granting or amending such order. The applicant shall demonstrate that if the order is terminated the property shall comply with all current requirements for the zoning district(s) of that property. The order may be rescinded at any time by the granting authority for a violation of the order by the applicant, its successors, agents or assigns after notice to the current owners and occupiers of the property and after a hearing on the violation. Upon termination of an order, the zoning requirements shall be the current requirements for the zoning district designated for the property. Any use authorized by a special land use order shall be continuously maintained once the same is commenced, and if not so continuously maintained, the special land use permit shall expire.

1364.08 Special land use permits granted by the city commission.

The City Commission may grant a special land use permit for the following uses in any district, except as herein qualified:

- (1) *New buildings 3,000 square feet or larger in gross floor area* for allowed uses in an OS or RC District subject to the following:
 - a. The building is for an allowed use;
 - b. The minimum yard requirements may be changed by the Planning Commission based upon topography and existing site limitations (i.e, water, roads, neighboring buildings).
 - c. Traffic related to the use shall not substantially increase congestion on surrounding streets and intersections.
 - d. The use is not likely to create excessive noise across the real property boundary.

~~(2)(1) *Clustered single family dwellings.* The purpose of clustered housing is to provide owners of large parcels of single or two family residential property the alternative to develop their properties in an environmentally sensitive and cost effective manner by clustering single family homes or townhouses rather than spreading development over the entire site. By clustering development, sensitive and attractive environmental features can be preserved as common open space to be enjoyed by future residents. Clustered housing is subject to the following:~~

- ~~a. The use is located in an R-1a, R-1b or R-2 district.~~
- ~~b.a. The property is of at least 5 contiguous acres under single ownership and control.~~
- ~~c.a. The development must meet the front, side and rear yard setback requirements of the district on the periphery of the parcel. More than 1 building may be located on a single lot, but setback requirements for the district shall apply to each building based on hypothetical lot lines approved by the Planning Director as proposed by the applicant.~~
- ~~d.a. The overall density of the development shall not exceed the allowable density of the district; (4.4 dwelling units per acre in an R-1a district, 5.8 dwelling units per acre in an R-1b district and 10.9 dwelling units per acre in an R-2 district).~~
- ~~e.a. Townhouses are permitted, provided there are no more than 4 dwelling units per detached structure. The front building wall plane is interrupted and off set in order to project the character and appearance of individual dwelling units;~~
- ~~f.a. A parking area shall be provided only at the side or the rear of the building for which it is designed to service. That portion of the parking area which is exposed to the street~~

~~shall be screened to minimize the visual impact of the parking area from the public street. Parking areas must also be screened along lot lines bordering residential uses or zones on the periphery of the parcel. Screening shall create an effective visual barrier consisting of a screenwall or a landscaped area at least 6 feet wide, densely planted with a mixture of deciduous and evergreen trees and shrubs, and shall create an effective visual barrier. All trees shall be a minimum of 2-inch caliper when planted. Native trees and shrubs shall be planted whenever possible. In instances where healthy plant material exists on the site prior to development, in part or in whole, for purposes of off-street parking, the Planning Commission may adjust the application of the above-stated standard to allow credit for such plant material.~~

~~g.a. Trash containers shall be properly screened.~~

~~h.a. All other standards not specifically altered in the zoning district shall apply to clustered housing.~~

(3)(2) *Communication towers.* The intent of this section is to ensure communication towers are constructed and placed in a manner which will protect the public health, safety and welfare and where visual impact will be minimized. Communication towers are permitted if all of the following requirements are met:

- a. The communication tower is located in a T, GP, C-3, NMC-2 (except on Grand Traverse Bay), H-2 or I district and properties owned by governmental agencies.
- b. The communication tower complies with all applicable FCC and FAA regulations and all applicable building codes.
- c. The tower is no higher than 20 feet above the height restrictions of the district in which it is located unless it can be demonstrated that additional height is necessary for the tower's intended purpose, but in no case shall the tower exceed 50 feet above the height restrictions of the district. Height is measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
- d. Communication towers must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line. Guys and accessory buildings must satisfy the minimum zoning district setback requirements. The City Commission may reduce the standard setback requirements if the goals of this chapter would be better served thereby.
- e. The design of the buildings and structures related to communication towers shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
- f. The tower shall not use blinking or flashing lights, unless required by the FAA or other applicable authority. If lighting is required, the lighting and design chosen must cause the least disturbance to the surrounding views.
- g. Cabinets housing operating equipment shall be architecturally screened from adjacent properties and street level views.
- h. Existing mature trees and natural land forms on the site are preserved to the maximum extent possible.

- i. The communications tower and operating equipment shall comply with the general standards for approval contained in this chapter. Any tower that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned tower within said 90 days may be removed by the City at the owner's expense.

~~(4)~~(3) Convention centers in a D district, subject to the following:

- a. The building is limited to 30,000 square feet;
- b. Thirty five percent of the building facade shall be windows or other street level activity;
- c. A traffic and economic impact analysis to assess impacts on neighboring streets is provided by the applicant.

~~(5)~~(4) Conversions of one-family dwellings to two-family dwellings in a R-1a or R-1b district, subject to the following:

- a. The dwelling and lot existed prior to December 10, 1958, substantially as they exist at the time of the request for a special land use permit for purposes of complying or determining compliance with these requirements. Any change made after 1958 may not be used to demonstrate compliance with these requirements.
- b. The dwelling is a minimum of 20 percent larger than the average area of those neighboring single-family dwellings within 300 feet to each side of the subject property, including those dwellings along the opposite side of the street.
- c. The lot area is not less than 4,000 square feet per proposed dwelling unit.
- d. A minimum of 800 square feet of interior living area is required for a 1 bedroom dwelling unit and 1,200 square feet of living area is required for a 2 bedroom dwelling unit. In no case shall any secondary dwelling unit provide more than 2 bedrooms.
- e. The dwelling has a minimum of 2,800 square feet of living area exclusive of any basement or third story area.
- f. A dwelling unit or portion of a dwelling unit is not provided in the basement, and the basement area shall not be considered to fulfill any requirement of this Zoning Code.
- g. No part of a dwelling unit, other than storage, exists above the second story.
- h. Access to a second floor dwelling unit is provided from the interior of the structure.
- i. The exterior appearance of the structure is not altered from its single-family character.
- j. Off-street parking is provided as required by this Zoning Code.

~~(6)~~(5) Correctional institutions subject to the following:

- a. The use is located in a GP district.
- b. All open recreational areas shall be in completely enclosed courtyards.
- c. Cell windows and openings shall be screened from the public street view.
- d. A master site and facilities plan shall be submitted.

~~(7)~~(6) Drive-throughs for finance services in C-4 and D districts subject to the following:

- a. The drive-through meets all of the standards of Section 1374.06, unless a more restrictive standard is imposed by this section.
- b. The drive-through shall be accessed from an alley, not a street. However, a single lane driveway may exit onto a street if such driveway existed and was utilized prior to July 16, 1999, and it can be clearly demonstrated that alley egress for the drive-through is not practical.
- c. The drive-through shall be limited to 2 service lanes.
- d. The building associated with the drive-through shall be streetward of the approach lanes to screen the vehicle service lanes.

~~(8)~~(7) Essential service structures. Are subject to the following:

- a. The structure and use are reasonably necessary for the public convenience or welfare and, where applicable, a certificate of public convenience and necessity has been obtained from the appropriate regulating agency.
- b. Noise, lights, glare and odor will not disturb the surrounding land uses or members of the public.
- c. Fencing or other adequate security is constructed to adequately protect the public.
- d. If potential adverse effects have been identified, alternative sites have been examined and the proposed site is reasonably necessary to provide the essential service to residents and visitors of the City.
- e. Evidence of the appropriate franchise, license or other required governmental permission is demonstrated.
- f. Setbacks of the district shall apply unless varied by the Planning Commission for good cause. Communication towers shall be regulated pursuant to Traverse City Code Section 1364.09.

~~(9)~~(8) Reserved.

~~(10)~~(9) Residential care and treatment facilities subject to the following:

- a. The use is located in an ~~R-9, R-15, R-29R-3~~, HR, C-1, C-2, C-3 or H-1 or H-2 district.
- b. The facility shall be located on an arterial or collector street as shown on the Zoning Map if such facility has more than 12 residents.
- c. Off-street parking is provided as required by this Zoning Code, except that the Planning Commission may vary the number of parking spaces required.
- d. The design of the structure is approved by the Fire Marshall prior to the issuance of the special land use permit and at least annually thereafter to maintain the permit.
- e. The structure is not used as a medical clinic or for outpatient treatment unless located in a C-1, C-2 or C-3 District.
- f. The structure is not used primarily for office, administrative or regular meetings if located in a multiple family dwelling district, although occasional meetings may be allowed upon approval of the Planning Commission.
- g. All necessary licenses are obtained and maintained.

- h. The operators of the facility maintain a list of all persons residing at the facility and record their length of stay. State licensed residential facilities (e.g., adult foster care homes) with under 7 residents are considered by State law to be single family residences, and state law preempts this Code. MCL 125.583(b); MSA 5.2933(2).

~~(11)~~(10) *Schools* subject to the following:

- a. The use is located in an R-1a, R-1b, R-2, ~~R-9, R-15, R-29~~R-3, C-1, C-2 C-3 or GP district.
- b. A Master Site and Facilities Plan is submitted to and approved by the Planning Commission showing:
 - 1. Existing facilities and planned facilities for the ensuing 5 years.
 - 2. Adequate street crossing facilities, pedestrian routes and projected number of pedestrians.
 - 3. Sufficient areas for motor vehicle and bus circulation routes, together with areas for pick up and drop off of students.
 - 4. If child care use is provided, the facilities for such use shall be designated in the plan, together with the child care hours of operation.
 - 5. The building and parking area shall not exceed 70 percent of the lot area.
- c. A traffic study must be submitted to the Planning Commission.

~~(12)~~(11) *Stores, retail, over 8,000 square feet per floor* in a D district, subject to the following:

- a. The building is limited to 30,000 square feet;
- b. Thirty five percent of the building facade shall be windows or other street level activity;
- c. A traffic and economic impact analysis to assess impacts on neighboring streets is provided by the applicant.

~~(13)~~(12) *Taller buildings*. "Taller buildings" mean those buildings greater than 60 feet in height.

The purpose of this section is to encourage sensitive design for taller buildings. Since there are very few buildings taller than 60 feet in the City, it is of public interest that prominent buildings, simply by order of their height, are designed in a manner which will maintain the pedestrian scale at the street level. At the same time, the physical, visual and spatial characteristics of the City are encouraged to be promoted by consistent use, compatible urban design and architectural design elements. Taller buildings are allowed in a C-4b, C-4c, D, GP, NMC-2 or H-2 district subject to the following:

- a. The building's height is consistent with Section 1368.01.
- b. Roof top mechanical equipment and penthouse space that are an integral part of the architectural design are permitted. All mechanical equipment, appurtenances and access areas shall be completely architecturally screened from view and enclosed.
- c. Extended heights for steeples and other architectural embellishments less than 400 square feet each shall not be used to determine the height of the building.
- d. The applicant shall prepare and deliver to the Planning Director a scale model, video image or other similar depiction of the taller building in relation to surrounding land and buildings.

~~(14)~~(13) *Temporary accessory dwelling units (TAD)* in an RC, R-1a or R-1b district, subject to the following:

- a. The existing site and use are substantially in compliance with this Zoning Code.
- b. The floor area of the TAD unit is not larger than 676 square feet.
- c. The applicant shall present sufficient evidence to the Planning Commission to establish a substantial need for the TAD unit. The TAD shall be discontinued when the person or persons with the substantial need permanently moves to a different domicile or when there is a change in the circumstances where the substantial need no longer exists.
- d. A TAD unit is developed within an existing single-family and/or usual accessory use under this Zoning Code.
- e. A special land use permit for a TAD unit is not assignable or transferable and will expire automatically unless the applicant submits written evidence that a substantial need continues to exist 3 years from the date of approval and thereafter every 5 years.
- f. Upon the expiration of the special land use permit the TAD unit shall be discontinued and the property shall be brought into full compliance with the use requirements of this Zoning Code.
- g. Individual site plans, floor plans, elevation drawings and building plans for both the proposed TAD unit and the subsequent reconversion to conventional single-family residence and/or accessory use shall be submitted with the application for a special land use permit and shall be prepared by a registered architect or engineer licensed to practice in the state.

~~(15)~~(14) *Transit centers*, subject to the following:

- a. The center is located in a C-4, D-2, D-3 or GP district.
- b. Buses can directly access the center without being dependent upon an access or sub collector street in a residential district.
- c. Existing streets in the area accommodate the projected bus traffic.
- d. The location of the center lends itself to an integrated transportation system (i.e., walk, bus, bike, rail).
- e. The center is within ¼ mile to a high concentration of job sites or dwellings.
- f. Noise, lights, glare and odor will not unreasonably disturb the surrounding land uses or members of the public.
- g. If potential adverse effects have been identified, alternative sites have been examined and determined by the applicant not to be feasible.
- h. No transit vehicle fueling, repair or storage is allowed.

~~(16)~~(15) *Theaters, live, and performance art centers in an ~~R-9, R-15, or R-29, R-3~~ Multiple-Family Dwelling District*, subject to the following conditions:

- a. The use must have existed prior to 2005.
- b. Minor additions are allowed provided the addition is for barrier free access, fire safety or space that will not increase the seating capacity of the facility.

- c. Additions are architecturally compatible with the existing structure and the character of the neighborhood.
- d. The applicant submits a parking plan that demonstrates there is sufficient parking within 500 feet to meet the theater's parking demand.
- e. On-site exterior lighting is directed to minimize impacts on adjacent residential areas.
- f. Performances are not allowed between the hours of 12:00 midnight and 8:00 a.m.

~~(17)~~(16) *Transitional housing and emergency shelters*, subject to the following:

- a. The facility is fully enclosed in a building located in an HR, C-1, C-2, C-3, D-1, D-2, D-3, H-1, H-2, or I District.
- b. The site is located within a ½ mile of a bus stop connected by sidewalks or bike trails.
- c. The lot is not located within 1,500 feet of another lot devoted to transitional housing or emergency shelter.
- d. The facility shall have a maximum of 100 beds and/or sleeping pads.
- e. The building provides 50 square feet of heated building space per person staying overnight at the facility.
- f. The operator of the Emergency shelter shall provide continuous, on-site supervision by an employee or volunteer during all hours of operation.
- g. The operator of the facility shall have a written management plan including, as applicable, staffing levels, provisions for staff and volunteer training, neighborhood outreach, length of stay of residents, hours of operation, crime prevention, security, screening of residents to insure compatibility and the mission of service provided at the facility. The management plan shall establish a maximum length of time which clients may be accommodated.
- h. The operator shall have an ongoing housing assistance program on the premises to place the residents into permanent housing and maintain a list of all persons residing at the facility.
- i. Parking requirements would be determined by the Planning Director based on the intensity of the operation described in the management plan.

~~(18)~~(17) *Wind energy system, pole or tower-mounted structures*. The intent of this section is to ensure that free-standing wind energy systems are constructed and placed in a manner which will protect the public health, safety and welfare and where visual impact is minimized. Free-standing wind energy systems are permitted if all of the following requirements are met:

- a. The free-standing wind energy system is located in a T, GP, C-3, NMC-1, NMC-2, H-1, H-2 or I district and properties owned by governmental agencies.
- b. Guy wires are only permitted to be used in the I and T districts.
- c. The free-standing wind energy system complies with all applicable FCC and FAA regulations and all applicable building codes.
- d. The pole or tower is no higher than 20 feet above the height restrictions of the district in which it is located unless it can be demonstrated that additional height is necessary

for the wind energy system's intended purpose, but in no case shall the wind energy system exceed 40 feet above the height restrictions of the district.

- e. Wind energy systems must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line. The setback can be reduced by up to 50 percent or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the tower is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind turbine. Accessory buildings must satisfy the minimum zoning district setback requirements. The City Commission may reduce the standard setback requirements if the goals of this chapter would be better served thereby.
- f. The design of the wind energy system or buildings and structures related to the wind energy systems shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
- g. The wind energy system shall not use blinking or flashing lights, unless required by the FAA or other applicable authority. If lighting is required, the lighting and design chosen must cause the least disturbance to the surrounding views.
- h. Wind energy system cabinets housing operating equipment shall be architecturally screened from adjacent properties and street level views.
- i. Existing mature trees and natural land forms on the site are preserved to the maximum extent possible.
- j. The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.
- k. The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04 (h). A wind energy system emits a pure tone and would be subject to a reduction of 5 dBA.

(19)(18) *Wind energy system, building-mounted structures.* The intent of this section is to ensure that building-mounted wind energy systems are constructed and placed in a manner which will protect the public health, safety and welfare and where visual impact is minimized. Building-mounted wind energy systems may exceed the 20 feet above the height limitation of the district if all of the following requirements are met:

- a. Height exceptions to what is allowed by right will not be allowed in the GP, PR, RC, R-1a, R-1b, R-2, ~~R-9, R-15, R-29~~ and R-3 Districts.
- b. A taller building-mounted wind energy system may be located in NMC-1, NMC-2, I, T, H-1, H-2, C-1, C-2, C-3, C-4, D and HR Districts.
- c. Guy wires are only permitted to be used in the I and T Districts.
- d. The building-mounted wind energy system complies with all applicable FCC and FAA regulations and all applicable building codes.

- e. A building-mounted wind energy system is no higher than 20 feet above the height of the roof deck in which it is located unless it can be demonstrated that additional height is necessary for the wind energy system's intended purpose, but in no case shall the wind energy system exceed 40 feet above the height of the roof.
- f. The setback can be reduced by up to 50 percent or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the tower is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind turbine. Accessory buildings must satisfy the minimum zoning district setback requirements. The City Commission may reduce the standard setback requirements if the goals of this chapter would be better served thereby.
- g. The design of the wind energy system or buildings and structures related to the wind energy systems shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
- h. The wind energy system shall not use blinking or flashing lights, unless required by the FAA or other applicable authority. If lighting is required, the lighting and design chosen must cause the least disturbance to the surrounding views.
- i. Wind energy system cabinets housing operating equipment shall be architecturally screened from adjacent properties and street level views.
- j. Existing mature trees and natural land forms on the site are preserved to the maximum extent possible.
- k. The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.
- l. The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04(h). A wind energy system emits a pure tone and would be subject to a reduction of 5 dBA.

Editor's note(s)—For "taller buildings," which are those buildings greater than sixty (60) feet in height, see City Charter § 28Editor's note(s)— for additional requirements.

1364.09 Administrative special land use permits.

The Planning Director may grant an Administrative Special Land Use Permit for the following uses in any district except as herein qualified:

- (1) *Adult foster care small group home* in an R-C, R-1a, R-1b and R-2 subject to the following specific requirements:
 - a. All necessary licenses are obtained and maintained. Expiration or revocation of a license automatically terminates the special land use permit and a change in the licensee requires a special land use permit renewal.

- b. The adult foster care licensee shall be a member of the household and an occupant of the residence.
- c. The lot is not located within 500 feet of another lot devoted to such use.
- d. The use is not allowed in an apartment.
- e. No additional parking is required for the Adult Foster Care Home provided on-street parking is allowed adjacent to the property. If on-street parking is not allowed, 2 parking spaces shall be provided on premise.

(19) Clustered single-family dwellings. The purpose of clustered housing is to provide owners of large parcels of single- or two-family residential property the alternative to develop their properties in an environmentally sensitive and cost-effective manner by clustering single-family homes or townhouses rather than spreading development over the entire site. By clustering development, sensitive and attractive environmental features can be preserved as common open space to be enjoyed by future residents. Clustered housing is subject to the following:

- a. The use is located in an R-1a, R-1b or R-2 district.
- b. The property is of at least 15 contiguous acres under single ownership and control.
- c. The development must meet the front, side and rear-yard setback requirements of the district on the periphery of the parcel. More than 1 building may be located on a single lot, but setback requirements for the district shall apply to each building based on hypothetical lot lines approved by the Planning Director as proposed by the applicant.
- d. The overall density of the development shall not exceed the allowable density of the district; (4.46.2 dwelling units per acre in an R-1a district, 5.810.9 dwelling units per acre in an R-1b district and 10.921.8 dwelling units per acre in an R-2 district).
- e. Townhouses are permitted, provided there are no more than 4 dwelling units per detached structure. The front building wall plane is interrupted and off-set in order to project the character and appearance of individual dwelling units;
- f. A parking area shall be provided only at the side or the rear of the building for which it is designed to service. That portion of the parking area which is exposed to the street shall be screened to minimize the visual impact of the parking area from the public street. Parking areas must also be screened along lot lines bordering residential uses or zones on the periphery of the parcel. Screening shall create an effective visual barrier consisting of a screenwall or a landscaped area at least 6 feet wide, densely planted with a mixture of deciduous and evergreen trees and shrubs, and shall create an effective visual barrier. All trees shall be a minimum of 2-inch caliper when planted. Native trees and shrubs shall be planted whenever possible. In instances where healthy plant material exists on the site prior to development, in part or in whole, for purposes of off-street parking, the Planning Commission may adjust the application of the above-stated standard to allow credit for such plant material.
- g. Trash containers shall be properly screened.
- h. All other standards not specifically altered in the zoning district shall apply to clustered housing.

- (2) *Communication antennas.* The intent of this section is to ensure that communication antennas are constructed and placed in a manner which will protect the public health, safety and welfare and where visual impact will be minimized. Co-location of communication antennas are permitted, subject to the following:
- a. Communications antennas and cabinets housing operating equipment are not permitted for residential buildings or structures in a R District. When associated with a building, the antenna(s) and cabinet(s) housing operating equipment shall be located inside the building.
 - b. The antenna(s) is no taller than 8 feet above a building or structure.
 - c. The antenna(s) shall be screened, located or designed in a manner which minimizes views from adjacent properties and street level views or blends with the architecture so as not to be noticed.
 - d. Cabinets housing operating equipment located on a building roof shall be enclosed or screened from street level view using the same materials used for the building walls or a material which is approved by the Planning Director as visually compatible with the building.
 - e. Cabinets housing operations equipment not located in a building or on a building roof shall be architecturally screened from adjacent properties and street level views.
 - f. All necessary licenses shall be obtained and maintained.
 - g. The antenna(s) and operating equipment shall comply with the general standards for approval contained in this chapter.
- (3) *Landing areas.* A landing pad, area, strip, deck or building roof used to launch or receive aircraft, including, but not limited to power-driven winged or delta winged aircraft, gliders, balloons, and helicopters, subject to the following:
- a. The use is located in an H-1, H-2, or GP district.
 - b. A noise contour map shall be constructed and overlaid on a land use map.
 - c. The noise contours shall be based on the noise exposure forecasts.
 - d. Noise loads shall not exceed maximum recommended FAA noise standards for residentially developed areas.
- (4) *Parking area, private, in a C-4 district if public parking is available within 500 feet of an allowed use,* subject to the following standards:
- a. No buildings may be removed or demolished to provide the private parking area.
 - b. Access shall be from an alley or adjacent property only, not from a public street.
 - c. All requirements of Chapter 1374, Circulation and Parking, are met, except Section 1374.03(d).
 - d. All requirements of Sections 1372.06, Screening requirements for parking areas, and 1372.08, Landscape development internal to a parking area are met.
 - e. Pedestrian travel routes within the parking area shall be provided, clearly defined and approved by the Planning Director.

(5) *Parking area construction deferral.* It is the intent of this section to provide a mechanism whereby a portion of the off-street parking otherwise required by this Code may be deferred to a future time if it can be demonstrated by the applicant that the number of required parking spaces is excessive of the actual need of a specific use.

- a. *Standards.* The following standards shall be met for the approval of any parking deferral:
 1. The property must be located in a GP or I district.
 2. No more than 50 percent of the parking otherwise required by this Code shall be deferred.
 3. The area of the site where parking has been deferred shall remain clear of any new structure.
 4. This clear area shall not be used for parking, the location of a new building, an area to satisfy storm-water management requirements, open space requirements, or screening requirements of this Code.
 5. A land banked area shall be maintained in its natural condition or landscaped depending upon which is most appropriate for the development in the vicinity as determined by the Planning Director.
- b. *Process.* In addition to other special land use application requirements, the following shall be submitted for review and approval:
 1. A completed application for parking deferral signed by the landowner and business owner as applicants
 2. A project site plan showing the off-street parking area proposed to be developed and the treatment of the area of the site where parking is to be deferred.
 3. A written narrative, signed by the applicant(s), describing in detail the current use of the property, the working shifts, the number of full and part-time employees on each shift, the expected customer counts per day based upon past experience, and records of any operational characteristics which are unique to the subject use which would impact the demand for parking.

(6) *Places of worship* in an R-1a, R-1b, R-2, ~~R-9, R-15 and R-29~~ R-3 district, subject to the following:

- a. The building shall be designed and used primarily for worship.
- b. The use and related parking shall not necessitate the removal of any historically significant structure as determined by the Historic Districts Commission.
- c. The maximum lot size shall be 15,000 square feet if located in an R-1a, R-1b or R-2 district and having frontage only on an access street.
- d. On street parking within 600 feet from the site may account for up to 50 percent of the required parking. All off-street parking shall be located to the rear of the primary building.
- e. The building and parking area shall not exceed 70 percent of the lot area.

- f. Parking is allowed in an R-District if associated with a building located in an R-District.

The effective date of this Ordinance is the _____ day of _____, 2023.

I hereby certify the above ordinance amendment was introduced on _____, 2023, at a regular meeting of the City Commission and was enacted on _____, 202, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Richard Lewis, Mayor

Benjamin C. Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____, 2023.

Benjamin C. Marentette, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective Date: _____

TITLE: Chapter 1368: Size and Area Requirements

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 1368: Size and Area Requirements, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

Chapter 1368 Size and Area Requirements

1368.01 Building height.

(a) *Purpose.* The height standards serve several purposes:

- (1) They promote a reasonable building scale and relationship of 1 building to another;
- (2) They promote options for privacy for neighboring properties; and
- (3) They reflect the general building scale and placement of buildings in the area.

(b) All maximum heights below may be further limited to ensure the maximum safety in the use of the Cherry Capital Airport.

(c) *Height requirements.* The maximum and minimum height requirements are indicated in the following chart:

District		Feet(max-min)
OS		45
RC		45
R-1a/ R-1b		35
R-2		35
R-3		45
HR		45 ⁸
C-1		30 ⁸ (45 ^{3,8})
C-2		30 ⁸ (45 ^{3,8})
C-3		45 ⁸
C-4 ¹	a	30-45 ⁸
	b	30-60(68 ^{2,4,8})
	c	30-85 ^{2,5}
D		See D District chapter ⁸
T		45
GP		25-90

I	60 (public utility buildings - 100')
NMC-1	45
NMC-2	90 (On Bay: 50')
H-1	45
H-2	See H District Chapter
PRD	See PR District chapter

¹ Buildings in the C-4 District shall have a minimum height of 30 feet, except an existing building may have an addition of no larger than the area of the first floor of that building as it existed on the effective date of Ordinance No. 467, which is July 16, 1999.

² Over 60 feet in height may be allowed only by special land use permit or as part of a planned unit development and subject to the requirements listed above.

³ Forty-five feet in height is allowed if at least 1 floor is designed and used for residential uses.

⁴ Sixty-eight feet in height is allowed if at least 20 percent of the building is designed and used for dwellings.

⁵ An additional 15 feet is allowed for rooftop mechanical equipment or elevator shafts, but not to exceed an overall height of 100 feet. Buildings over 60 feet tall shall have at least 20 percent of the building designed and used for dwellings.

⁶ Air traffic control towers are exempt from this height requirement.

⁷ All existing buildings may double their existing first floor area.

⁸ All buildings that front the street, except for parking structures, accessory and utility buildings and buildings that are intended and designed to be exclusively developed for residential use shall have a minimum height of 15 feet measured from the street entrance level to the next finished level or roof structure. The Planning Director may grant a first floor building height exception if it has been clearly demonstrated that such provision is unnecessary or that such requirements would create a practical difficulty, as contrasted merely granting an advantage or convenience.

1368.02 Setbacks; yards.

(a) *Purpose.* The setback regulations for buildings serve several purposes:

- (1) They maintain light, air, separation for fire protection, and access for firefighting;
- (2) They reflect the general building scale and placement of buildings in the City's neighborhoods;
- (3) They promote a reasonable physical relationship between buildings; and
- (4) They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity.

(b) *Setbacks required.* Unless a stated specific setback is established by this Code, the minimum setbacks, the distance between a property line and a building wall, are required as indicated in each district's chapter in this Code and on the following chart:

District	Front	Side setbacks	Rear	Setback from water
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		One Side	Aggregate		
OS	Average setback of buildings within 200' on either side or 30' if there are no buildings	10	20	30	50' from ordinary high water mark of Grand Traverse Bay and Boardman Lake, and 25' from ordinary high water mark of Boardman River (exceptions in OS District for certain buildings); and 25' from Kids Creek ⁴ .
RC	Average setback of buildings within 200' on either side or 25' if there are no buildings	10 (None if adjacent to an RC District.)	20 (None if adjacent to an RC District)	30	50' from ordinary high water mark of Boardman River (exceptions in OS District for certain buildings); and 25' from Kids Creek ⁴ .
R-1a	25' minimum	8 ²	20 ²	30	50' from ordinary high water mark of Boardman River (exceptions in OS District for certain buildings); and 25' from Kids Creek ⁴ .
R-1b	Within 4' of the average setback of principal buildings on the same face block; no closer than 6' from the front property line.	6 ²	14 ²	25	50' from ordinary high water mark of Boardman River (exceptions in OS District for certain buildings); and 25' from Kids Creek ⁴ .
R-2	A	6 ²	14	25	50' from ordinary high water mark of Boardman River (exceptions in OS District for certain buildings); and 25' from Kids Creek ⁴ .
R-3	Within 4' of the average setback of principle buildings on the same block; but not less than 19 feet from the edge of the street curb or edge of the pavement if	6	14 ¹	25	50' from ordinary high water mark of Boardman River (exceptions in OS District for certain buildings); and 25' from Kids Creek ⁴ .

	there is no curb				
HR	Within 4' of the average setback of principal buildings on the same face block; no closer than 8' from the front property line.	None, except a minimum 10-foot side setback is required on the side adjoining a residential district.		5 feet, except a minimum 20-foot rear setback is required if adjacent to or across an alley from a residential district.	
C-1	The lesser of 8' or the average setback of principal buildings on the same face block.	None, except a minimum 10-foot side setback on any side adjoining an R-District.		5 feet, except 20' on any portion abutting or across an alley from an R-District	
C-2	Lesser of 8' or the average setback of principle buildings on the same block. Maximum 25'			5 feet, except 20 feet if adjoining an R-District.	
C-3	Bldg 25' max Bldg 8' min			5', except 20' on any portion abutting or across an alley from an R-District.	
C-4	2.5 ³ minimum, 15' maximum.	Buildings shall be set back a minimum of 25' from any bridge abutment unless otherwise approved by the City Engineer if he or she determines that the building will not interfere with the maintenance or reconstruction of the bridge and that utilities will not be adversely impacted.			Build to edge of a public easement; if no public easement, 10' from high water mark.

D	See Chapter 1347 for requirements				
T	25'	0	0	None, except 25' if abutting or adjacent to an R-district	N/A
GP	25' minimum, or as shown on the approved Master Site and Facilities Plan allowing a lessor setback.	None, except 25' if abutting or adjacent to an R-District.	N/A	25 feet	25' inland from the ordinary high water mark.
I	25'	0	0	15' minimum	N/A
NMC-1 and NMC-2	100' or as shown on approved Master Site & Facilities Plan.	0	0	5 feet, except 20' if abutting or adjacent to an R-district.	50' from ordinary high water mark of Grand Traverse Bay
H-1	The lessor of 8 feet or the average setback of principal buildings on the same face block.	5 feet, except a 10' setback is required on a side adjoining an R-District.			N/A
H-2	25 feet or as shown on the approved Master Site and Facilities Plan allowing a lessor setback.				

¹ For structures above grade on lots or tracts of land on Grand Traverse Bay, the setback is the greater of 30 percent of the lot width or the number listed on the chart above.

² Thirty-five percent of a building wall may be located no closer than 4' from the property line.

³ Existing buildings closer than 2.5 feet that have been damaged by fire, explosion, act of God or similar causes and located closer than 2.5 feet may be restored or rebuilt at the same location using the same foundation unless located in the right-of-way.

⁴ The setback for Kids Creek shall be measured from the ordinary high water mark, or the centerline of the creek when buried or below grade. The Planning Director may reduce the Kids Creek setback up to a minimum of 10 feet if it is determined that the site is otherwise unbuildable.

- (c) *Encroachments into the setbacks.* No encroachments into the setbacks are allowed except those indicated in each district chapter and except barrier free ramps as approved by the Planning Director and except in the C-4 district, a building, balcony, porch or deck may project no more than 5 feet into a rear setback provided these projections are not less than 15 feet above grade and provided they do not project into any public right-of-way and except eaves, chimneys, sills, belt courses, cornices and ornamental features not to exceed 2.5 feet are permitted to extend within the front or rear setbacks.
- (d) *Storage in an R-district yard.* In an R-district, no yard, except the rear yard, shall be used for the location of a swimming pool or for the storage of a boat, motor home, camper, utility trailer or other recreational vehicle or equipment. For the purposes of this Code, storage shall mean parking the vehicle or equipment in an area unused for the purpose for which it was designed for a period of 30 consecutive days or more.
- (e) *Contiguous lots.* 2 or more parcels, lots of record or platted lots, when contiguous and when held in common ownership, shall be treated together as a single lot for the purposes of this Zoning Code, provided such lots are located in the same zoning district.
- (f) *Corner lots.* On corner lots, the location of the required rear setback will be determined by the Planning Director, who will use the following guidelines in reaching a decision:
 - (1) The required rear setback is commonly located opposite the street frontage having the lesser dimension.
 - (2) The required rear setback is opposite the street upon which the address has been assigned.
 - (3) The required rear setback commonly abuts a public alley.
 - (4) The required rear setback is commonly located to conform to the established development pattern of adjacent properties on the face block.
- (g) *Nonconforming lots.*
 - (1) When a lot of record as of the effective date of this ordinance has less area or width than herein required in the district in which it is located, and the owner of such lot does not own any other parcel adjacent thereto, such lot may nonetheless be used for the construction of a dwelling and for normal accessory uses subject to the standards of this Code.
 - (2) Where 2 or more abutting lots of record, which individually provide less area or width than herein required, are owned by the same party and such lots together create a parcel which complies with the area or width standards of this Zoning Code, such lots shall not thereafter be divided for the purpose of creating another buildable lot or parcel, except in accordance with the requirements of this Code.
- (h) *Compliance required.* No setback area or lot existing at the time of adoption of this Zoning Code shall be reduced in dimensions or area below the minimum requirements set forth herein except as a result of government action. Setbacks or lots created after the effective date of this Zoning Code shall meet at least the minimum requirements established herein.
- (i) *Street-specific setbacks.* The following setbacks are specific to the streets indicated are as follows:

US 31, M-37, M-72, M-22, Garfield Avenue, 14th Street from Division Street to Cass Street, and Eighth Street from Union Street to Munson Avenue, where the right-of-way is less than 100 feet in width, the minimum setback is the greater of the established setback of the zoning district or 19 feet from the back of curb. If there is no curb, the setback is measured from the edge of the pavement.

1368.03 Lot width, lot area, impervious surface and density requirements.

- (a) *Density.* Density standards serve several purposes. They match housing density with the availability of public services and with the carrying capacity of the land. For example, more housing can be allowed on flat areas than on steep, slide-prone zones. At the same time, density standards promote development opportunities for housing and promote urban densities in less developed areas. The density regulations are a tool to judge equivalent density when comparing standard and nonstandard land divisions (such as Planned Unit Developments).
- (b) *Lot size.* In standard land divisions, lot size limits help to preserve the overall character of developed neighborhoods by assuring that new houses will generally have the same size lots as the surrounding built-up area. They also assure that development on a lot will, in most cases, be able to comply with all applicable development standards.
- (c) *Compliance required.* Every single-family dwelling and every two-family dwelling erected or structurally altered after the effective date of this Zoning Code in the R-1a, R-1b, and R-2 districts shall be located on a lot.
- (d) *Impervious surface.* Surface parking areas shall not exceed the total floor areas of all buildings on the lot in the C-4 and GP districts. In the NMC-1 and NMC-2 districts, the surface parking area shall not exceed 15 percent of the total area of any lot over 10 acres.
- (e) *Table.* The lot width, lot area and impervious surface and density requirements for each district shall be as indicated in each district and as on the following chart:

District	Minimum Lot Width (feet) ¹	Minimum Lot Area (square feet)	Maximum Density (dwelling units per acre)	Maximum Impervious Surface %
OS	20	None	N/A	20
RC	20	None	4.4	20
R-1a	90 <u>70</u>	9,000 <u>7,000</u>	1⁵ <u>2⁵</u>	30 <u>35</u>
R-1b	35 <u>45</u> ⁴	5,000 <u>4,000</u>	1⁵ <u>2⁵</u>	45 <u>50</u>
R-2	35	4,000	2 <u>4</u>	45 <u>50</u>
R-3	50	7,500	none	70
HR	50	7,500	44 rooms/acre	70
C-1	20	3,750	N/A	60
C-2	20	3,750	N/A	70
C-3	20	3,750	N/A	80
C-4	None	None	N/A	100 ³
D	See Chapter 1347 for requirements			

T	20	None	None	70
GP	20	None	None	70 ²
I	100	None	None	80
PRD	See Chapter 1352 for requirements			
NMC-1	20	None	15	30 ²
NMC-2	20	None	29	50 ²
H-1	20	None	29	70
H-2	20	None	29	60

¹ See access control restrictions, Traverse City Code, Section 1374.04.

² The surface parking area shall not exceed 15 percent of the total area of any lot over 10 acres.

³ The surface parking area shall not exceed the total floor area of all buildings on the lot.

⁴ ~~The minimum lot width for parcels located north or east of the US31/M-72, east of Milliken Drive and south of Eastern Ave are 45 feet.~~

⁵ An accessory dwelling unit may be permitted in R-1a and R-1b which if permitted, would increase the allowed density maximum to 2 dwellings per parcel if accessory to a single-family dwelling, or 3 dwellings per parcel if accessory to a duplex dwelling.

1368.04 Condominiums.

Dimensional requirements for commercial and multi-family condominiums shall be computed on the basis of the entire condominium project land. Dimensional requirements for residential, single and two-family condominiums shall be computed based on the lot lines as established in the condominium documents, or, if none, based on each separate structure and a hypothetical lot line as approved by the Planning Director after considering common elements, limited common elements, and private elements. The area of streets to be used by more than 1 separate condominium building shall not be included in lot area computations.

1368.05 Compliance required.

Any building or structure erected, converted, enlarged, reconstructed or structurally altered shall conform with the height, yard, bulk and other dimensional limits herein established for the district in which located. No portion of 1 lot, once established and/or improved with a building or structure shall be created unless each lot resulting from each such reduction, division or sale shall conform with all of the requirements established herein.

(Ord. 476, Passed 7-6-99.)

The effective date of this Ordinance is the _____ day of _____, 2023.

I hereby certify the above ordinance amendment was introduced on _____, 2023, at a regular meeting of the City Commission and was enacted on

_____, 2023, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Richard Lewis, Mayor

Benjamin C. Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____, 2023.

Benjamin C. Marentette, City Clerk

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Chapter 1378: Renewable Energy

THE CITY OF TRAVERSE CITY ORDAINS:

That Chapter 1378: Renewable Energy, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

Chapter 1378 Renewable Energy

The purpose of this chapter is to provide regulations governing renewable energy systems such as wind and solar, to provide for appropriate locations for wind and solar energy systems, to ensure compatibility with surrounding uses, and to promote safe, effective and efficient use of renewable energy systems to increase opportunities for generation of renewable energy.

1378.01 Definitions.

Guy wire means a cable, wire, or rope that is used to brace something.

Rotor diameter means the cross-sectional dimension of the circle swept by the rotating blades of a wind energy turbine.

Solar energy system means any solar collection system devise (i.e. solar photovoltaic cell, panel, or array, or solar hot air or water collector device) where the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

Solar energy system, freestanding-mount means any solar collection system devise mounted on a pole(s).

Solar energy system, structure-mount means any solar collection system devise mounted on a structure or accessory building.

Wind energy system means any devise that converts the kinetic energy of wind into mechanical or electrical energy that is either pole-mounted, tower-mounted or building-mounted through the use of equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components used in this system.

Wind energy system, height of means the vertical distance to the uppermost vertical extension of any blade, or the maximum height reached by any part of the wind energy system. For tower/pole-mounted wind energy system, height is measured from the ground level at the base of the tower/pole. For building-mounted wind energy systems, height is measured from the highest point of the roof or roof deck, excluding chimneys, antennae and other similar protuberances.

Wind energy system, building-mount means a wind energy system mounted on a roof of a building or accessory building.

Wind energy system, pole-mount means a wind energy system ground-mounted on a long, cylindrical, often, slender piece of wood, metal, etc. and does not include guy wires.

Wind energy system, tower-mount means a wind energy system ground-mounted on steel lattice or tubular steel and may include guy wires.

1378.02 Wind energy systems will be allowed in the following districts with restrictions.

(a) *Residential Conservation (RC), ~~Single-Family Dwelling~~Low Density Residential (R-1a and R-1b), ~~Two-Family Dwelling~~Mixed Density Residential (R-2), Multiple Family Dwelling (R-3)* subject to the following:

- (1) Wind energy systems mounted on a building or an accessory building may be erected to a height not exceeding 10 feet above the highest point of the roof, excluding chimneys, antennae and other similar protuberances. Wind energy systems must be spaced at least 10 feet apart and quantity is limited to 2 per parcel. Guy wires are not allowed.
- (2) Wind energy systems mounted on a pole may be erected to a height not exceeding 10 feet above the height limit of the district and will only be permitted in the rear yard except can be located streetward on lots on navigable water and be located streetward of the principal building on the less traveled street on through lots. Pole-mounted wind energy systems shall be setback a distance equal to the height of the wind energy system from any adjoining lot line. The setback can be reduced by up to 50 percent or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the pole is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind energy system. Pole-mounted wind energy systems are limited to 1 per parcel. Guy wires are not allowed.
- (3) The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.
- (4) The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04(h). A wind energy system emits a pure tone and would be subject to a reduction of 5 dBA.

(b) *Hotel Resort (HR), Office Service (C-1), Neighborhood Center (C-2), Community Center (C-3), Regional Center (C-4), Hospital (H-1 and H-2), Development (D), Government/Public (GP), Northwestern Michigan College (NMC-1 and NMC-2) and Transportation (T)* subject to the following:

- (1) Wind energy systems mounted on a building or an accessory building may be erected to a height not exceeding 20 feet above the highest point of the roof deck, excluding chimneys, antennae, rooftop mechanical equipment and other similar protuberances. Wind energy systems must be spaced at least 20 feet apart and quantity is limited to 3 per building. Guy wires are allowed.

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- (2) Wind energy systems mounted on a pole or tower are not allowed in C-1, C-2, C-4, D or HR.
 - (3) Wind energy systems mounted on a pole or tower are allowed in C-3, H-1, H-2, GP, NMC-1, NMC-2 and T. Wind energy systems mounted on a pole or tower may be erected to a height not exceeding 20 feet above the height limit of the district and will only be permitted in the rear yard except can be located streetward on lots on navigable water and be located streetward of the principal building on the less traveled street on through lots. Tower-mounted wind energy systems shall be setback a distance equal to the height of the wind energy system from any adjoining lot line. The setback can be reduced by up to 50 percent or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the tower is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind energy system. Pole/Tower-mount wind energy systems must be spaced 1 per parcel if less than 1 acre and 1 per acre on parcels larger than 1 acre. Guy wires are not allowed.
 - (4) Wind energy systems mounted on a building will not be considered rooftop equipment.
 - (5) The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.
 - (6) The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04(h). A wind energy system emits a pure tone and would be subject to a reduction of 5 dBA.
- (c) *Industrial District (I)* subject to the following:
- (1) Wind energy systems mounted on a building or an accessory building may be erected to a height not exceeding 20 feet above the highest point of the roof deck, excluding chimneys, antennae and other similar protuberances. Wind energy systems must be spaced at least 20 feet apart. Guy wires are allowed.
 - (2) Wind energy systems mounted on a pole or tower may be erected to a height not exceeding 120 feet pending FAA review and will only be permitted in the rear yard except can be located streetward on lots on navigable water and be located streetward of the principal building on the less traveled street on through lots. Tower-mounted wind energy systems shall be setback a distance equal to the height of the wind energy system from any adjoining lot line. The setback can be reduced by up to 50 percent or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the tower is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind energy system. Pole/Tower-mount wind energy systems must be spaced 1 per 120 feet radius. Guy wires are allowed.
 - (3) Wind energy systems mounted on a building will not be considered rooftop equipment.
 - (4) The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to

remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.

- (5) The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04(h). A wind energy system emits a pure tone and would be subject to a reduction of 5 dBA.

(d) *Open Space (OS) District* subject to the following:

- (1) Wind energy systems shall be subject to review from the Parks and Recreation Commission with final approval from the City Commission.

1378.03 Solar energy systems will be allowed in the following districts with restrictions.

(a) *Residential Conservation (RC)*, ~~*Single-Family Dwelling*~~ *Low Density Residential (R-1a and R-1b)*, ~~*Two-Family Dwelling*~~ *Mixed Density Residential (R-2)*, *Multiple Family Dwelling (R-3)* subject to the following:

(1) Solar energy systems- structure-mounted on a building or an accessory building are allowed by right subject to the following:

- a. With a flat or mansard style roof may be erected to a height not exceeding 10 feet above the highest point of the roof, excluding chimneys, antennae and other similar protuberances.
- b. With a pitched roof style shall not exceed the peak height of the roof.
- c. Will not be considered rooftop equipment.
- d. Shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.

(2) Solar energy systems-freestanding-mount are allowed by right subject to the following:

- a. Be erected to a height not exceeding 15 feet and area of 150 square feet per unit and will only be permitted in the rear yard except can be located streetward on lots on navigable water and be located streetward of the principal building on the less traveled street on through lots unless deemed impractical by the Planning Director.
- b. Must be setback 20 feet from side and rear property lines and are limited to 2 per parcel. Guy wires are not allowed.
- c. Shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.
- d. Shall meet the impervious surface requirements of the district.

(b) *Industrial District (I)*, *Hotel Resort (HR)*, *Office Service (C-1)*, *Neighborhood Center (C-2)*, *Community Center (C-3)*, *Regional Center (C-4)*, *Hospital (H-1 and H-2)*, *Development (D)*, *Government/Public (GP)*, *Northwestern Michigan College (NMC-1 and NMC-2)*, *Open Space (OS)* and *Transportation (T)* subject to the following:

(1) Solar energy systems- structure-mounted on a building or an accessory building are allowed by right subject to the following:

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- a. With a flat or mansard style roof may be erected to a height not exceeding 10 feet above the highest point of the roof, excluding chimneys, antennae and other similar protuberances.
 - b. With a pitched roof style shall not exceed the peak height of the roof.
 - c. Will not be considered rooftop equipment.
 - d. Shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.
- (2) Solar energy systems-freestanding-mount are allowed by right subject to the following:
- a. Be erected to a height not exceeding 20 feet and area of 200 square feet per unit.
 - b. Must be setback 10 feet from side and rear property lines and shall have no quantity limit. Guy wires are not allowed.
 - c. Shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.
 - d. Shall meet the impervious surface requirements of the district.

1378.04 Exceptions.

- (a) For wind energy systems that exceed what is allowed by right, the City Commission Special Land Use Permit, Section 1364.08, would apply.
- (b) Historic Districts. Historic District Commission requires that roof-mounted solar and wind energy systems be located on the rear portion of the roof or an accessory building in the rear yard for designated Historic Districts. Also, structure-mounted solar energy systems must receive aesthetic approval from the Historic District Commission.

The effective date of this Ordinance is the _____ day of _____, 2023.

I hereby certify the above ordinance amendment was introduced on _____, 2023, at a regular meeting of the City Commission and was enacted on _____, 2023, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Richard Lewis, Mayor

Benjamin C. Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a

daily newspaper published in Traverse City, Michigan, on
_____, 2023.

Benjamin C. Marentette, City Clerk