

Keel Capital, LLC
August 7, 2023

Traverse City Area Public Schools
Attn: Board of Education
412 Webster Street
Traverse City, MI 49686

Subject: Purchase Agreement for 412 Webster Street

Dear Members of the Board,

Thank you for the opportunity to engage with TCAPS staff, the Board and neighbors regarding our plan to reimagine 412 Webster Street. We are pleased to present the Board with a purchase agreement (the "Agreement") for signature, which is the result of extensive negotiations between our team, your administration and Thrun, the Board's counsel. We are committed to delivering a project that not only revitalizes the site but also addresses the pressing need for housing, all while preserving the cherished character of the neighborhood.

We have enjoyed the productive dialogue and collaborative efforts with stakeholders over the past several months. These interactions have been invaluable in shaping our vision for the site and understanding the unique needs and concerns of the community. In response to the feedback received from the Board and neighbors, we have made numerous changes to our offer and site plan, the most impactful of which are summarized below:

1. We committed to adding even more housing to the center of the site and decreasing average unit size to provide more attainable housing for essential workers, including teachers, which requires a re-zoning to D-2 or R-3 from R-2. The Agreement requires us to submit a re-zoning application within 30 days of execution, and we intend to be well within that deadline.
2. We accepted an edit to the Agreement that prohibits short-term rentals ("STRs") and accessory dwelling units ("ADUs") via a deed restriction. While this will likely negatively impact the price we can achieve at sale, we understand how controversial these points are, particularly STRs, and willingly accepted. We have deep ties to the area (Will is moving to TC, his wife is a TC Central graduate and Tom's brother is a teacher at Blair Elementary) we want to be good neighbors and community members.
3. After hearing complaints from several neighbors regarding vibrations from pile driving at the Commongrounds development and resulting foundational damage, we agreed to bring our driveway servicing the townhomes on Webster Street to grade, which was previously shown going below-grade, to avoid any pile driving or deep foundations.
4. Our offer is aggressive and structured as "best case" pricing regardless of zoning changes, effectively removing the contingency concerns. After several rounds of negotiations, we agreed to a guaranteed pricing model of \$1.2 million if our request for the zoning change is approved by March 31, 2024 or \$800,000 if the zoning change is not approved by March 31, 2024, which is still materially higher than any other offer the Board has received to date (to our knowledge you have not received an offer for this building that does NOT require a zoning change). With

the site zoned R-2 currently any party looking to use the existing building for housing would require a re-zoning, as R-2 zoning only allows 2 units per parcel, so the re-zoning issue is not unique to us.

We considered all options, including remodeling the existing structure, however our ultimate goal is to increase inventory of housing at multiple price points. The building's relatively wide corridors, aged mechanicals, thick block walls and need for environmental remediation make it a poor candidate for residential redevelopment. Another developer looking to use the building would likely give wonderful assurances prior to physical due diligence, but then come back to the Board with a laundry list of problems they discovered with a corresponding purchase price reduction. We've seen this play out countless times over our careers, and we heard a Board member comment on this scenario at Bertha Vos. Additionally, an adaptive re-use project would rely on State grants to help fund the redevelopment. Those grants are competitive, meaning awards are uncertain, and often take up to two years to procure. Our proposal offers much greater certainty.

As you consider our fully negotiated purchase agreement, we want to reiterate our commitment to transparency and collaboration. In particular, we hope you view our "back-up plan price" as an attempt to eliminate contingencies and risk to TCAPS. We would be disappointed if our re-zoning effort failed and the City Commission does not pass the recommended zoning changes, and would be forced to make the best of a bad situation where we will not be able to build as much housing, and thus cannot pay as much for the site. We will do everything we can to make sure it doesn't come to that.

We are very excited about the potential to transform the site into a development that the entire community can be proud of and believe the Agreement represents a good middle ground wherein we have ceded many points but are still excited about our plan. We also believe we have reached a "fork in the road" where after spending considerable time, energy and money to get to this point we either sprint full-speed to execute this development, or we change course, determine this development isn't meant to be and focus on other projects. We want to start engaging environmental consultants, engineers and contractors for this project, but to do that we need an executed Agreement. After putting many other potential opportunities on hold, we have determined that if we do not have an approved Agreement, or one that is subject only to minor changes, coming out of the August 14th Board meeting we would need to walk away and focus elsewhere. We hope it doesn't come to that, but we need to protect our resources.

Let's start sprinting!

Sincerely,

Will

Will Bartlett
Partner
Keel Capital, LLC
(414) 870-8882
will@keelcap.com

Tom

Tom O'Hare
Partner
Keel Capital, LLC
(240) 320-6323
tom@keelcap.com

PURCHASE AGREEMENT

This Purchase Agreement (“Agreement”) is made and entered into this _____ day of _____, 2023 (“Effective Date”), by and between **TRAVERSE CITY AREA PUBLIC SCHOOLS**, a Michigan general powers school district organized and operating under the provisions of the Revised School Code, MCL 380.1, *et seq.*, as amended, whose address is 412 Webster Street, Traverse City, Michigan 49686 (“Seller”), and **KEEL CAPITAL, LLC**, a Virginia limited liability company, whose address is 3033 Wilson Blvd, Suite E135; Arlington, Virginia 22201 (“Purchaser”) (individually, a “Party” and collectively, the “Parties”), for the transfer of real property located at 412 Webster Street, within the City of Traverse City, County of Grand Traverse, Michigan.

I. Property Transferred. The Purchaser shall purchase and receive and the Seller shall sell the above-referenced property, which is comprised of Tax Parcel No. 51-798-059-00 and legally described in Exhibit “A”, along with the building(s) thereon and, if any, all easements and all other interests and rights of the Seller which are appurtenant to the real estate, including, but not limited to, all right, title, and interest, if any, of the Seller in and to any land lying in street, road, or avenue in front of, within, or adjacent to, or adjoining such land (collectively, the “Property”).

II. Purchase Price. The purchase price (“Purchase Price”) to be paid by Purchaser in certified funds at Closing shall be as follows:

(a) If, on or before March 31, 2024, Traverse City (i) adopts the zoning amendments set forth on Exhibit “B” attached hereto, as recommended by the Traverse City Planning Commission at its June 6, 2023 meeting, or (ii) the Property is rezoned as D-2, then the Purchase Price shall be One Million Two Hundred Thousand and 00/100 Dollars (\$1,200,000.00).

(b) If neither of the conditions in subparagraph (a) above occur on or prior to March 31, 2024, then the Purchase Price shall be Eight Hundred Thousand and 00/100 Dollars (\$800,000).

III. Deposit. On April 30, 2024, if this Agreement has not otherwise been terminated, Purchaser shall deposit twenty percent (20%) of the Purchase Price with Seller (the “Deposit”). The Deposit shall be credited toward the Purchase Price at Closing, and shall only be refundable to Purchaser as set forth herein.

IV. Closing. The Closing of the sale described herein shall take place at the office of the Seller’s Superintendent or, at the Title Company, as defined below, or through an escrow closing conducted by the Title Company. Closing shall be held no later than June 20, 2024, unless the Parties agree in writing to another date (the “Closing”).

V. Evidence of Title. The Purchaser shall, as soon as practical and in any event within thirty (30) days from the Effective Date of this Agreement, obtain a commitment for an owner’s policy of title insurance in an amount to be determined by the Purchaser. The title company is the

Sun Title Agency (attention: TJ Pontarelli [tjpontarelli@suntitleagency.com]) (the "Title Company"). Prior to the expiration of the Inspection Period, the Purchaser shall notify the Seller of any restrictions, reservations, limitations, easements, liens, other conditions of record, or other matters (together, the "Title Defects"), disclosed in such commitment or the Survey, as defined below, which are objectionable to the Purchaser. Should the Purchaser notify the Seller of any such Title Defects, the Seller shall have ten (10) days from receipt of Purchaser's notice to cure or remove the same ("Seller's Cure Period"). If such Title Defects are not cured by the expiration of Seller's Cure Period, the Purchaser may, at the Purchaser's option, terminate this Agreement, or alternatively, set a date with the Seller to extend the closing date to a mutually agreed upon closing date so as to provide the Seller with an additional opportunity to cure said Title Defects. In the event such Title Defects are not cured by the closing date, or any extension thereof, and the Purchaser elects not to waive its objections to the Title Defects, the Agreement shall be terminated, and neither Party shall have any further obligations with regards to this Agreement. Any matters contained in the title commitment which are not objected to, or which are waived by Purchaser pursuant to this Agreement, shall be deemed "Permitted Exceptions."

VI. Zoning Approvals; Inspections; and Tests. Within thirty (30) calendar days from the Effective Date of this Agreement, the Purchaser shall submit a completed rezoning application to the City of Traverse City, requesting that the Property be rezoned as D-2. The Seller shall reasonably cooperate and authorize such rezoning application, as necessary and upon the Purchaser's request. In addition, the Purchaser shall have the right and license to enter upon the Property, upon reasonable advance notice to the Seller, for the purposes of making any and all surveys, appraisals, explorations, soil tests, inspections, environmental reports, wetlands and flood plain evaluations, water and perk tests, mechanical and electrical system inspections and the like, and to obtain any site plan or other approvals deemed necessary by Purchaser, all of which inspections and approvals shall be completed within one hundred twenty (120) calendar days from the Effective Date of this Agreement (the "Inspection Period"). The Purchaser shall then have five (5) days thereafter to determine whether it is satisfied with the condition of the Property and obtain all necessary approvals. In the event that the Purchaser is not satisfied with the condition of the Property or has not obtained all necessary approvals, Purchaser may terminate this Agreement by providing written notice to Seller, in which case Purchaser shall share with the Seller any environmental or Property-related reports obtained, and except as provided below, neither Party shall have any further obligations with regards to this Agreement.

VII. Survey. The Purchaser may obtain a survey of the Property (the "Survey"). If Purchaser does not obtain a Survey or does not object to any matters reflected in the survey as provided in Paragraph IV, the Purchaser shall be deemed to have waived its right to object to any matters reflected in the Survey, and all such matters shall be considered "Permitted Exceptions."

VIII. Environmental Testing. Purchaser will indemnify and hold harmless the Seller from any claims, damages, or causes of action which might occur as a result of Purchaser's activities on the Property during the Inspection Period and the Purchaser shall restore the Property to substantially the same condition existing before said test or investigations were conducted.

IX. Warranty Deed. At the Closing, the Seller shall deliver to the Purchaser a Warranty Deed, subject only to the Permitted Exceptions and the restriction described below, which

Warranty Deed shall transfer all permitted land divisions under the Land Division Act, PA 288 of 1967, as amended. The Warranty Deed shall contain a restriction that prohibits use of the Property for short-term rentals and accessory dwelling units.

X. Closing Costs. The Seller shall pay the transfer tax, if any, the premium for the owner's policy of title insurance, and any attorneys' fees incurred by the Seller. The Purchaser shall pay attorneys' fees incurred on behalf of the Purchaser, the cost of recording the Warranty Deed, and any inspection costs initiated by the Purchaser. At the Closing, each Party shall pay 1/2 of the closing costs required by the Title Company to close this transaction.

XI. Environmental Matters. It is the intention and agreement of the Seller and the Purchaser that following the conveyance of the Property to the Purchaser, the Seller shall have no liability to Purchaser arising out of or based upon exposure, occurring subsequent to such conveyance, to hazardous substances or other conditions in or about the Property, and except for the representations and warranties of Seller contained in this Agreement, the Purchaser is accepting the Property in its "as is" condition with full liability therefor. The Seller and the Purchaser agree, if a conveyance of the Property occurs, as follows:

(a) The Purchaser shall, at its sole expense, be responsible for and pay the cost of any and all environmental assessments and remedial actions, if any, required after conveyance pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (as amended), Public Act 451 of 1994, as amended, or any and all other applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, and guidelines (including consent decrees and administrative orders) relating to public health and safety and the protection of the environment.

(b) The Purchaser further agrees that it shall, at its sole expense, defend against any claims asserted by third parties arising from any exposure in and about the Property after the date of closing to any hazardous waste as defined in Section 11103(3) of Public Act 451 of 1994, as amended, or as defined in any other applicable federal or state law, regulation, ruling, order, or as a result of any other allegedly dangerous conditions known or unknown existing in and about the Property as of the date of conveyance to the Purchaser.

(c) The provisions of this section shall, in the case any one or more of the same is deemed to be unenforceable, be severable, meaning that the unenforceability of any given provisions shall not affect the enforceability of the remaining provisions.

(d) This section shall inure to the benefit and be binding upon the Purchaser, its successors and assigns.

(e) The provisions of subparagraphs (a) through (d) above shall survive the Closing. At the Seller's option, at the Closing, the provisions of subparagraphs (a) through (d) shall be placed in recordable form, signed and acknowledged by the Purchaser and the Seller and then recorded by the Seller, at its sole expense, with the Register of Deeds of Grand

Traverse County, Michigan. A copy of the Transfer of Liability Agreement is attached as Exhibit "C".

XII. Time of Essence. Time is of the essence with respect to all dates and times set forth in this Agreement; provided, however, that if a deadline or date for performance, or for the giving or receipt of a notice, falls on a day that is not a business day, such deadline or date shall be deemed extended to the next business day.

XIII. Taxes. The Seller shall pay all real property taxes, if any, on the Property prior to the date of closing. The Purchaser shall be responsible for all real property taxes, if any, on the Property which become due on or after the date of Closing.

XIV. Special Assessments. Special assessments which are or become a lien on the Property before the date of Closing shall be paid by the Seller. Special assessments which become a lien on the Property on or after Closing shall be paid by the Purchaser.

XV. Disclaimer of Warranties. AT CLOSING, THE PURCHASER SHALL CONFIRM IN WRITING IT HAS CONDUCTED ALL INSPECTIONS WHICH, IN ITS SOLE DISCRETION, IT HAS DETERMINED NECESSARY TO ESTABLISH THE CONDITION OF THE PROPERTY. THE PURCHASER WILL EXECUTE THE PURCHASER'S STATEMENT THAT IS ATTACHED AS EXHIBIT "D" (THE "PURCHASER'S STATEMENT"). THE PURCHASER'S STATEMENT CONFIRMS IN WRITING THAT THE PURCHASER HAS INSPECTED THE PROPERTY AND AGREES TO TAKE THE PROPERTY "AS IS" AND IN ITS PRESENT CONDITION, AND THAT THERE ARE NO OTHER OR ADDITIONAL WRITTEN OR ORAL UNDERSTANDINGS. THE PURCHASER'S STATEMENT ALSO PROVIDES THAT THE SELLER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND WITH REGARD TO THE PROPERTY, EXCEPT THOSE CONTAINED IN THIS AGREEMENT OR ANY DOCUMENT DELIVERED BY SELLER AT CLOSING.

XVI. Attorney's Opinion. The Purchaser acknowledges that the Seller has recommended that the Purchaser retain an attorney to pass on the marketability of the title to the Property and to review the details of the sale before the Closing.

XVII. Notices. All notices required or given under this Agreement shall be in writing and either delivered personally or mailed by regular mail addressed to the Parties at their addresses specified above. Mailed notices shall be effective upon mailing.

XVIII. Whole Agreement. This Agreement constitutes the entire agreement between the Parties and shall be deemed to supersede and cancel any other agreement between the Parties relating to the transactions herein contemplated. Each Party acknowledges that no representation, inducement, or condition not set forth herein has been made or relied upon by either Party.

XIX. Amendments. This Agreement may only be amended or modified only by a document in writing executed by each of the Parties named above.

XX. Successors and Assigns. This Agreement shall bind and benefit the Parties and their respective successors and assigns. Purchaser may assign this Agreement to any entity, upon no less than one (1) business day's prior written notice given to Seller.

XXI. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Michigan. The Purchaser agrees that any claims, actions and disputes arising from this Agreement will be subject to the exclusive jurisdiction of the Circuit Court for Grand Traverse County, Michigan.

XXII. Counterpart Signatures. This Agreement may be executed in one or more counterparts, including facsimile or digital copies, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument. Signatures to this Agreement sent by email (including ".pdf"), or delivered by other electronic means will be valid and effective to bind the Party so signing.

XXIII. Covenants of Seller. Seller hereby covenants to Purchaser as follows:

(a) From and after the Effective Date and continuing until the Closing (provided this Agreement has not been terminated), Seller will not enter into any new contracts affecting the Property without Purchaser's prior written consent.

(b) From the Effective Date until the Closing, Seller shall operate and manage the Property in the ordinary course and consistent with Seller's past practices and all applicable laws.

(c) From and after the Effective Date and continuing until the Closing (provided the Agreement has not been terminated), Seller shall not convey or encumber any portion of the Property or any rights therein, nor enter into any conveyance, security document, easement, or other agreement granting to any person or entity any rights with respect to the Property or any part thereof, or any interest whatsoever therein, or any option with respect thereto, without the prior written consent of Purchaser.

(d) Seller shall deliver possession of the Property to Purchaser vacant and free from tenants, occupants or other parties in possession, and shall remove all personal property from the Property.

XXIV. Seller's Representations and Warranties. Seller makes the following representations and warranties to Purchaser as of the Effective Date and (except as may be disclosed in writing to Purchaser after the Effective Date) again as of the closing date:

(a) The execution, delivery and performance of this Agreement and all closing documents to be executed and delivered by Seller pursuant to this Agreement are within the organizational power of Seller. All requisite action has been taken by Seller in connection with the entering into of this Agreement and the instruments referenced herein and the consummation of the transactions contemplated hereby. The individual(s) executing this Agreement and the instruments referenced herein on behalf of Seller have

the legal power, right and actual authority to bind Seller to the terms and conditions hereof and thereof.

(b) There are no actions or proceedings pending or, to Seller's knowledge, threatened against Seller that Seller reasonably expects would affect the validity or enforceability of this Agreement.

(c) Seller shall have no management, service, supply, repair or maintenance agreements, no equipment leases and no other contracts or agreements with respect to or affecting the Property as of the Closing.

(d) The Property is not subject to any option, rights of first refusal, license or other agreement with respect to a purchase or sale of the Property or any portion thereof or any interest therein.

(e) To Seller's knowledge, there are no violations of any governmental laws, ordinances, rules, regulations or orders relating to the Property.

(f) To Seller's knowledge, as of the closing date, there will be no basis for any mechanics' or materialmen's lien or any lien for professional services affecting the Property as a result of work or services performed or materials provided to Seller or for the benefit of the Property.

Seller's representations and warranties contained in this Agreement shall survive the Closing for a period of one (1) year.

XXV. Casualty and Condemnation. If prior to the Closing, a governmental authority commences eminent domain proceedings with respect to the Property or any rights incidental thereto, then Seller shall promptly notify Purchaser in writing of such event, and Purchaser shall have the option to terminate this Agreement by written notice delivered to Seller within thirty (30) days after Seller's notice to Purchaser, and the closing date shall be extended, if necessary, to permit Purchaser to make such election within such time period. If Purchaser terminates this Agreement pursuant to terms of this section, then Seller shall promptly return the Deposit to Purchaser, if made. If Purchaser does not terminate this Agreement, Seller shall pay and/or assign to Purchaser all condemnation awards otherwise due to Seller.

XXVI. Default.

(a) If the sale of the Property as contemplated hereunder is not consummated on the closing date due to Purchaser's material default hereunder, which is not cured within three (3) business days after Seller's written notice thereof, then Seller shall be entitled, as its sole remedy, to terminate this Agreement.

(b) If the sale of the Property as contemplated hereunder is not consummated due to Seller's default hereunder, which is not cured within three (3) business days after Purchaser's written notice thereof, then Purchaser shall be entitled, as its sole remedy,

either (a) to terminate this Agreement, in which case Seller shall promptly return the Deposit to Purchaser, if made, or (b) to seek to enforce specific performance of Seller's obligation to convey the Property to Purchaser in accordance with the terms of this Agreement, and recover from Seller all reasonable attorneys' fees and costs in any such action; provided, however, that if specific performance is not available due to an act or omission of Seller, Purchaser shall be entitled to exercise all rights and remedies at law or in equity.

XXVII. Indemnification. The Parties expressly acknowledge that the Seller is a public body and Michigan general powers school district whose powers are limited to those conferred upon it by law and which may not have the authority to indemnify third parties. Subject to the foregoing and to the extent permitted by law, each Party (as the "Indemnifying Party") shall defend, indemnify, and hold harmless the other against and with respect to any suits, actions, proceedings, investigations, demands, claims, liabilities, fines, penalties, liens, judgments, losses, injuries, damages, expenses, or costs arising in connection with the breach or inaccuracy of any representation or warranty made by the Indemnifying Party, regardless of whether the inaccuracy or misrepresentation was deliberate, reckless, negligent, innocent, or unintentional.

[SIGNATURES APPEAR ON FOLLOWING PAGES.]

IN WITNESS WHEREOF, the Parties have signed this Purchase Agreement as of the Effective Date set forth above.

SELLER:

**TRAVERSE CITY AREA PUBLIC SCHOOLS,
a Michigan general powers school district**

By: _____
Dr. John VanWagoner

Its: Superintendent

Dated: _____

PURCHASER:

**KEEL CAPITAL, LLC
a Virginia limited liability company**

By: _____

Its: _____

Dated: _____

EXHIBIT "A"

Legal Description of Property

LOTS 1-2-3-4 BLK 15 ORIG PLAT.

Tax Parcel No. 51-798-059-00

**EXHIBIT “B”
PROPOSED ZONING AMENDMENTS**

[see attached]

EXHIBIT “C”
TRANSFER OF LIABILITY AGREEMENT

This Transfer of Liability Agreement (the “Agreement”) is entered into this ____ day of _____, 2023, between **TRAVERSE CITY AREA PUBLIC SCHOOLS**, a Michigan general powers school district organized and operating under the provisions of the Revised School Code, MCL 380.1, *et seq.*, as amended, whose address is 412 Webster Street, Traverse City, Michigan 49686 (“Seller”), and **KEEL CAPITAL, LLC**, a Virginia limited liability company, whose address is 3033 Wilson Blvd, Suite E135; Arlington, Virginia 22201 (the “Purchaser”) (individually, a “Party” and collectively, the “Parties”).

It is the intention and agreement of the Parties that following conveyance of the property located at 412 Webster Street, within the City of Traverse City, County of Grand Traverse, Michigan (Parcel No. 51-798-059-00) (the “Property”) to the Purchaser, the Seller shall have no liability to Purchaser with respect to any environmental remediation required on the Property or with respect to claims of third parties arising out of or based upon exposure, occurring subsequent to such conveyance, to hazardous substances or other conditions in or about the Property, and except as stated in the Purchase Agreement between the Parties dated _____, 2023, the Purchaser is accepting the Property in its “as is” condition with full liability therefor. More specifically, the Parties agree as follows:

- (a) The Purchaser shall, at its sole expense, be responsible for and pay the cost of any and all environmental assessments and remedial actions, if any, required after conveyance pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (as amended), Public Act 451 of 1994, as amended, or any and all other applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, and guidelines (including consent decrees and administrative orders) relating to public health and safety and the protection of the environment.
- (b) The Purchaser further agrees that it shall, at its sole expense, defend against any claims asserted by third parties from any exposure in and about the Property after the date of closing to any hazardous waste as defined in Section 11103(3) of Public Act 451 of 1994, as amended, or as defined in any other applicable federal or state law, regulation, ruling, order, or as a result of any other allegedly dangerous conditions known or unknown existing in and about the Property as of the date of conveyance to the Purchaser.
- (c) The provisions of this section shall, in the case any one or more of the same is deemed to be unenforceable, be severable, meaning that the unenforceability of any given provisions shall not affect the enforceability of the remaining provisions.
- (d) This section shall inure to the benefit and be binding upon the Purchaser, its successors and assigns, including any party to whom any of the Property is conveyed or leased in whole or in part, by the Purchaser.
- (e) The provisions of paragraphs (a) through (d), above, shall survive closing.

SELLER:

**TRAVERSE CITY AREA PUBLIC SCHOOLS,
a Michigan general powers school district**

By: _____

Dr. John VanWagoner

Its: Superintendent

Dated: _____

Acknowledged before me in Grand Traverse County, Michigan, this ____ day of _____, 2023, Dr. John VanWagoner, Superintendent, Traverse City Area Public Schools, a Michigan general powers school district.

(signature)

(printed)

Notary Public, _____ County, Michigan

My Commission Expires: _____

Acting in the County of _____

PURCHASER:

**KEEL CAPITAL, LLC,
a Virginia limited liability company**

By: _____

Its: _____

Acknowledged before me in _____ County, Michigan, this ____ day of _____, 2023, by _____.

_____ (signature)

_____ (printed)

Notary Public, _____ County, Michigan

My Commission Expires: _____

Acting in the County of _____

When Recorded Return To:	Send Subsequent Tax Bills To:	Prepared By (Without Opinion):
Seller	Purchaser	Philip G. Clark, Esq. Thrun Law Firm, P.C. P.O. Box 2575 East Lansing, MI 48826-2575

EXHIBIT “D”

PURCHASER’S STATEMENT

KEEL CAPITAL, LLC (the “Purchaser”) is purchasing from **TRAVERSE CITY AREA PUBLIC SCHOOLS** (the “Seller”), real property located at 412 Webster Street within the City of Traverse City, County of Grand Traverse, Michigan, whose Tax Parcel No. is 51-798-059-00 (collectively, the “Property”).

The Purchaser confirms, acknowledges, and agrees that:

- (1) The Purchaser confirms that, except as set forth in the Purchase Agreement between Purchaser and Seller dated _____, 2023 (the “Purchase Agreement”), it has inspected the Property and agrees to take the Property “as is,” with all personal property and debris and in its present condition.
- (2) The Purchaser confirms there are no other or additional written or oral understandings and that the Seller disclaims any and all warranties of any kind with regards to the Property except for those contained in the Purchase Agreement.

KEEL CAPITAL, LLC,
a Virginia limited liability company

By: _____

Its: _____

Dated: _____

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.

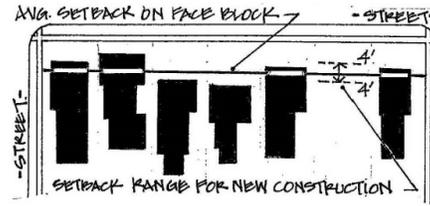
Lot width (min.)	Lot area (min.)	Density (maximum)	Impervious surface
35 feet	4,000 sq. feet	2-4	45 50% maximum

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.



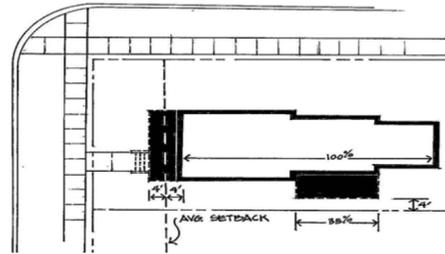
(b) *Side setbacks (minimum):*

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.

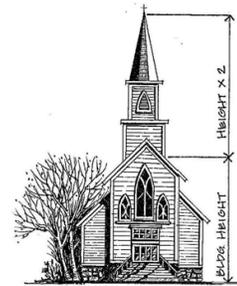
1334.06 Building height.

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

- (b) *Exceptions:*

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

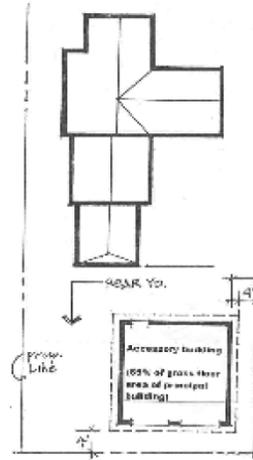
Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.



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-29R-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-29R-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 § 28 Editor'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-29R-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 § 28 Editor'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; (4.4~~6.2~~ dwelling units per acre in an R-1a district, 5.8~~10.9~~ dwelling units per acre in an R-1b district and 10.9~~21.8~~ 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~~ and 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