

**DOWNTOWN DEVELOPMENT AUTHORITY
LOWER BOARDMAN RIVER LEADERSHIP TEAM
ZONING SUBCOMMITTEE**

Monday, December 7, 2020
10:30 a.m.

The Lower Boardman River Leadership Team Zoning Subcommittee Meeting will not be held at the Governmental Center. The Lower Boardman River Leadership Team Zoning Subcommittee will be conducted remotely via Zoom Webinar.

The Lower Boardman River Leadership Team Zoning Subcommittee Meeting can be viewed at:

<https://us02web.zoom.us/j/83306688723?pwd=YnE2UWhiaHF1c1hBRmtibnVhdzFOdz09>

Anyone wishing to listen and give public comment will need to call in and wait in a “virtual waiting room” where their microphones will be muted until they are called upon:

Dial: 312 626 6799

Meeting ID: 833 0668 8723

Participant ID: 676357

Posted and Published

The DDA recognizes the importance of not bringing people together unnecessarily in an effort to stop the spread of the coronavirus. The Governmental Center has been closed to walk-in traffic and will be closed for all DDA, Lower Boardman River Leadership Team and Lower Boardman River Leadership Team Subcommittee meetings for the foreseeable future. Members of the Lower Boardman River Leadership Team Zoning Subcommittee will not be present in the Governmental Center for official Lower Boardman River Leadership Team Zoning Subcommittee meetings.

This meeting is being conducted remotely to assist in stopping the spread of the coronavirus. Individuals with disabilities may participate in the meeting by calling-in to the number as though they were going to be giving public comment as outlined below or by calling the TDD#.

For members of the Lower Boardman River Leadership Team Zoning Subcommittee members and key DDA staff, their name will appear on screen when they are speaking. For individuals who may wish to give public comment, the method for providing public comment during these remote-participation meetings is to call the number outlined in the header as well as enter the Meeting ID and Participant ID as outlined in the header.

Callers wishing to give public comment may call in before the meeting starts and wait in a “virtual waiting room.” These instructions will be included in every official published agenda of the Lower Boardman River Leadership Team Zoning Subcommittee. Those calling in will be able to hear the audio of the Lower Boardman River Leadership Team Zoning Subcommittee meeting, yet their microphone will be muted.

When the Lower Boardman River Leadership Team Zoning Subcommittee accepts public comment, in the order calls were received, the meeting facilitator will identify the caller by the last four digits of their telephone number and ask them if they would like to make a comment.

While not required, but so we do not have to go through an unnecessarily long list of callers, we ask, if possible, that those who do not wish to give public comment refrain from calling in and instead listen to the meeting.

The DDA CEO has been designated to coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the DDA office.

If you are planning to attend and you have a disability requiring any special assistance at the meeting and/or if you have any concerns, please immediately notify the DDA CEO

The DDA and Lower Boardman River Leadership Team is committed to a dialog that is constructive, respectful and civil. We ask that all individuals interacting verbally or in writing with the Lower Boardman River Leadership Team honor these values.

DDA:

c/o Jean Derenzy, CEO

(231) 922-2050

Email: jean@downtowntc.com

Web: www.downtowntc.com

303 East State Street, Suite C.

Traverse City, MI 49684

Lower Boardman Leadership Team Zoning Subcommittee Meeting Agenda

1. Opening Public Comment
2. Discussion of Zoning Recommendations
3. Next Steps and Reporting Out To The Full Leadership Team
4. Public Comment
5. Adjournment

Any interested person or group may address the Leadership Team Zoning Subcommittee on any agenda item when recognized by the presiding officer or upon request of any Leadership Team Subcommittee member. Also, any interested person or group may address the Leadership Team Zoning Subcommittee on any matter of concerning the Lower Boardman River not on the Agenda during the agenda item designated Public Comment. The comment of any member of the public or any special interest group may be limited in time. Such limitation shall not be less than five minutes unless otherwise explained by the presiding officer, subject to appeal by the Leadership Team Zoning Subcommittee .



Downtown Development Authority
303 E. State Street
Traverse City, MI 49684
harry@downtowntc.com
231-922-2050

MEMORANDUM

To: Lower Boardman Leadership Team, Zoning Subcommittee

From: Harry Burkholder, DDA COO

For Meeting Date: December 7, 2020

SUBJECT: Review and Status of the Zoning Recommendations

For this meeting, we will be reviewing in more detail the discussion points/amendments related to the Riparian Buffer Zone Ordinance. Bob has included our more recent discussion points in the draft ordinance so that we can have a productive meeting.

It is very important that you review the materials ahead of the meeting to ensure that we have an insightful and productive discussion.

While the Zoning Subcommittee is made up of a subset of the Leadership Team, any Lower Boardman Leadership Team member is welcome to attend and provide input.

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: RIPARIAN BUFFER ZONE ORDINANCE

THE CITY OF TRAVERSE CITY ORDAINS:

That Section _____, _____, of the Zoning Code of the Traverse City Code of Ordinances, be added to read in its entirety as follows:

Chapter 1373 - RIPARIAN BUFFER ZONE

The intent of this chapter is to:

1. Conserve, protect, and restore natural riparian resources through scientifically supported processes.
2. Preserve areas that intercept and filter surface water runoff and improve water quality.
3. Protect shoreline and floodplain areas critical for flood attenuation and soil loss.
4. Conserve near-shore aquatic habitat for fish and invertebrates and shoreline and streambank habitat crucial for birds, insects and mammals.
5. Provide community scenic values and recreational values of watercourses and waterbodies.
6. Preserve natural deep-rooted vegetation critical for stable shorelines and streambanks.
7. Provide for the establishment of natural vegetation buffers on all sites adjacent to water bodies to promote public health and safety and protect land values.

1373.01 – Compliance Required.

- (a) For all parcels with a Riparian buffer zone (see Section 1320.07 *General Provisions and Definitions*) located in Grand Traverse Bay, Boardman Lake, Boardman River and Kids Creek where a land use permit is required, the following compliance is required:

(Need to define LBR, Dock Landing, decks, waterfront setbacks, permanent structure in Section 1320.07)

- (1) For the purposes of defining the allowed uses, structures, and construction within any building setback (front, rear, or side) which overlaps with a Riparian Buffer, the regulations and requirements of Chapter 1373 – RIPARIAN BUFFER ORDINANCE shall take precedence.

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(2) No development, permanent structures, fences, impervious surfaces or parking areas shall be allowed in the Riparian buffer zone, except for the following:

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(i) Private recreational areas such as permeable surface paths; permeable patios, playgrounds and playground safety enclosures; mown lawns; fire pits; permeable decks and dock landings, boat launches and boathouses allowed by this zoning code; temporary storage of seasonal boats, rafts and docks; temporary structures under 200 square feet are allowed in the Riparian buffer zone that meet the following requirements:

(a) All private recreational areas are constructed of permeable material that shall not allow for surface water to drain directly into Grand Traverse Bay, Boardman Lake, Boardman River or Kids Creek.

(b) Decks may not be constructed within the Priority Riparian Area (i.e., closer than 10 feet of the OHW Mark).

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(c) The total private recreational area may not exceed 30% area of the total area of the total Riparian buffer zone.

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(d) The part of the private recreation area located within the Priority Riparian Area and may not exceed 15% of the Priority Riparian Area.

(ii) Private recreation areas allowed in the Riparian Buffer for all sites within frontage along the Lower Boardman River shall be further limited to allow only permeable surface paths, permeable decks and fire pits, and one dock landing per parcel of property, which together shall not exceed 15% of the Riparian Buffer Area. The width of all paths measured together is limited to 8 feet total for the entire lot. (iii) Public permeable surface walkways are allowed in the Riparian buffer zone that meet the following requirements:

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Commented [BD3]: Limit private path width to 8 feet

Commented [BD4]: Look into allowable structures in setbacks- discuss with Russ. Do we need to define waterfront setback?

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(a) Public paths that parallel the river shall be located no closer than 10 feet from the land side of the Ordinary High Water (OHW) Mark, outside of the Priority Riparian Area. If a parallel path is located closer to the OHW Mark, the path shall be an elevated boardwalk and be located to the river side of the OHW Mark, an activity regulated by the State of Michigan and the US Corp of Engineers. Refer to Figure Three: Typical Cross Section with Boardwalk."

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(b) Public paths that are not parallel to the river may exist in the Priority Riparian Area only if they are providing access to overlooks, boardwalks, bridges, or defined public access points.

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(c) Public paths shall be limited to a maximum width of 10 feet, and a minimum width of 6 feet.

(d) A site plan of the Riparian buffer zone area and the public walkway must be submitted to and approved by the Planning Commission.

(e) The combined private recreational area and public walkway shall not exceed 40% area of the total area of the Riparian buffer zone.

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(iv) Paved or unpaved service drives, driveways, working/service areas, materials or refuse storage are not allowed in the Riparian Buffer, except as noted in Section 1373.01, Item (7.)"

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(v) Installation, maintenance or otherwise deemed necessary essential public utility services, maintaining minimal impact to the Riparian buffer zone.

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(3) Existing vegetation and healthy trees shall be preserved in the Riparian buffer zone as enumerated herein and within Chapter 1372 – Landscaping, except as follows:

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(i) Dead and/or diseased woody vegetation, unsafe or fallen trees, noxious plants including poison ivy, poison sumac, poison oak and other plants regarded as a common nuisance in Section 2, Public Act of 359 of 1941, as amended, being MCL 247.62, may be removed from the Riparian buffer zone and shall be replaced with native vegetation within one year of removal.

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¶ The stump and roots are treated and left in place

Any tree listed on the State of Michigan Invasive Species list that has been identified by a Certified Arborist may be removed, provided the stump and roots are treated and left in place,

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¶ The removal of one or more trees as identified on the State of Michigan Invasive Species list with a 6" diameter at breast height requires a consultation with a Certified Arborist.¶

(ii) Removal of native vegetation and tree roots within the Riparian Buffer shall be prohibited unless approved for publicly accessible recreational paths, boardwalks, overlooks, bridges, and related public amenities, and for removal and improvement of degraded habitat, subject to the tree replacement requirements noted above.

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(iii) For each tree removed, a replacement native or native cultivar tree of similar size at maturity shall be planted in the Riparian buffer zone within one (1) year of removal.

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(iv) The removal of one or more trees as identified on the State of Michigan Invasive Species list with a 6" diameter at breast height requires a consultation with a Certified Arborist.

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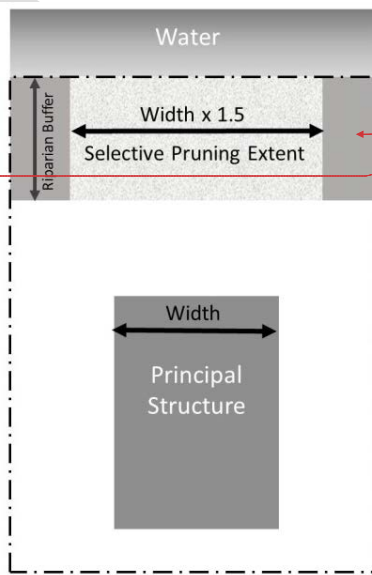
(4) If a dwelling is sited on a Waterfront lot, selective pruning (see Section 1320.07 *General Provisions and Definitions*) within the Riparian buffer zone is allowed as follows:

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(i) No more than an area equal to one and one-half (1 ½) times the principal structure width that faces the waterfront may be selectively pruned.

(ii) Any area cleared for Private recreational use as defined in this chapter, shall be counted towards the allowable pruned area.

(iii) No clear cutting of woody vegetation is permitted within the Riparian buffer zone.



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(5) Landscaping within the riparian buffer shall comply with Chapter 1372 – Landscaping, as supplemented herein. New landscape materials in the riparian buffer zone shall be native. Plantings shall be arranged and selected to retard water runoff, prevent erosion, and create wildlife food sources, nesting habitat, movement corridors, and protective cover. Selection of landscape plants shall include a diversity of species within any one plant type and shall be suitable for the conditions of the proposed habitat and reflective of the plant specie’s native habitat.

The use of plants that have cultural significance to the First Peoples is encouraged, including plants such as sage, sweet grass, northern white cedar, and native tobacco.”

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Commented [BD6]: Landscape ordinance relationship to this statement. . Add some text on encouraging removal and replacement of invasive species. Be consistent with existing ordinance.

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(6) Soil and erosion measures and procedures will be employed in accordance with Natural Resources and Environmental Protection Act (Part 91 P.A. 451 as amended) and the City of Traverse City Ground-Water Protection and Storm-Water Runoff Control Chapter 1068 of the City of Traverse City Codified Ordinances. Removal or disturbance of vegetation in a manner that is inconsistent with erosion and sedimentation control and riparian buffer protection shall be prohibited in the Riparian buffer zone.

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(7) The following may not be used or stored in the Riparian buffer zone:

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- (i) Fertilizers, manures or chemicals.
- (ii) No unsightly, offensive or potentially polluting material, including but not limited to:
 - a. Compost, lawn clippings, leaves, garbage, trash, refuse and animal pens.

(8) No new private seawalls, bulkheads, broken concrete, rubble, or other shoreline hardening materials along Boardman Lake, Boardman River or Kids Creek shall be located within the Riparian buffer zone. (Private Property owners must seek guidance for appropriate permits for projects which are regulated under jurisdiction of Michigan Department of Environment, Great Lakes and Energy (EGLE) and the Army Corps of Engineers.) Natural Rock Riprap is allowed in the Riparian buffer zone.

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This ordinance recognizes that the urban context of downtown Traverse City may not encourage pure landscape, habitat based, or “green” solutions, but for these sites there is a need to find solutions that create real habitat benefits. Rip Rap may be required to stabilize slopes in high current areas, or on steeply sloping banks. The use of landscape plantings and biodegradable materials is encouraged over the use of natural rock riprap. When required, rip rap shall be natural stone

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and used in concert with landscaping to create pocket plantings, and with other organic stabilization methods such as coir logs, brush mats, live stakes, and logs/stumps to minimize banks hardened with stone . Refer to Figures Two, Three, Four and Five.

(9) New construction of paved surfaces, including service areas, parking, walks and patios, which are located on all property that includes or is adjacent to a Riparian Buffer along the Lower Boardman River, shall not be allowed to drain directly into the river without pretreatment as recommended in the TIF 97 Stormwater Management Plan and regulated by the City of Traverse City Ordinance Chapter 1068 - Ground-Water Protection and Storm-Water Runoff Control.

(10) Motor or wheeled vehicle traffic shall be prohibited in any area of the Riparian buffer zone with the exception of pathways or boat launches adequately designed to accommodate the type and volume of vehicular movement, this includes public launches and parking areas.

(11) Reduction. In the event that the application of the Riparian buffer zone applicable under this Ordinance, results in a legal parcel that cannot be reasonably developed for permitted land uses in the district within which the property is located, a waiver, variance, modification, exception or similar provision shall be determined by the Board of Zoning appeals.

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The effective date of this Ordinance is the _____ day of _____, 2020.

I hereby certify the above ordinance amendment was introduced on _____, 2020, at a regular meeting of the City Commission and was enacted on _____, 2020, 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.

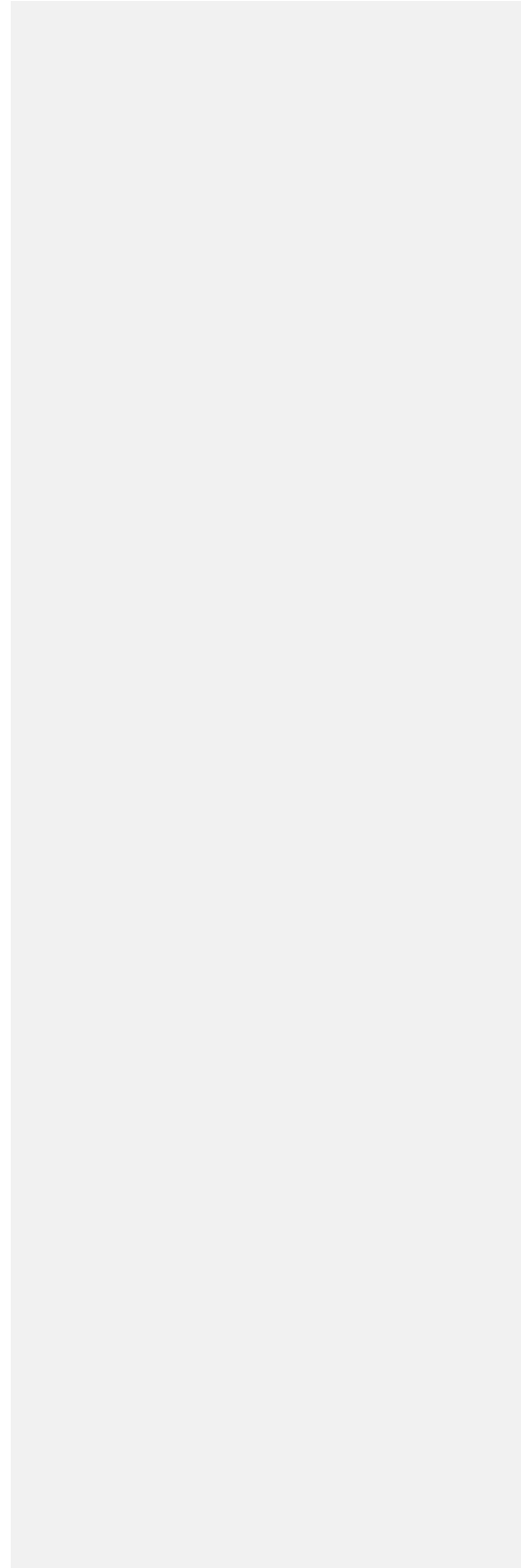
James Carruthers, Mayor

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 _____.

Benjamin C. Marentette, City Clerk

DRAFT



TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: ORDINANCE

THE CITY OF TRAVERSE CITY ORDAINS:

That Section _____, _____, of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

1320.07 - Definitions.

As used in this chapter:

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

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

Accessory dwelling unit means a smaller, secondary home on the same lot as a principal dwelling.

Accessory dwelling units are independently habitable and provide the basic requirements of shelter, heating, cooking and sanitation. There are 2 types of accessory dwelling units:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Boardwalk means a walkway constructed at or above the surrounding grade, and supported by posts or columns embedded into the ground.

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

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

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

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

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

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

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

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

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

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

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

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

Country club. See "golf course."

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

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

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

Deck means an open, unwallled structure that supports outdoor use of property, typically built above adjacent grade and supported by posts, columns, and /or adjacent buildings.

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

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

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

Dock Landing means a temporary walk structure that is used to provide access from land into a waterbody for the purposes of facilitating recreational use of the water.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Floor area. See "a gross floor area."

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

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

Grade means:

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

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

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

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

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

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

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

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

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

Invasive Species means:

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

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

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

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

Land clearing means:

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

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

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

Landscaping means some combination of planted canopy trees, vines, ground cover, flowers or turf so long as a minimum of 80 percent of the landscape area is covered by living plant material. Planted trees shall be a least 2½ inches caliper and shall comply with the species requirements set forth in the City's approved *Tree List*. In addition, the combination or design may include rock ground cover, earth mounds, and such structural features as fountains, pools, art works, screens, walls, fences and benches.

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

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

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

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

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

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

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

Lower Boardman River is the reach of the Boardman River that extends from the north shore of Boardman Lake to the Grand Traverse Bay of Lake Michigan.

Manufacturing means the production of articles for use from raw or prepared materials by giving these materials new forms, qualities, properties or combinations, whether by hand labor or machine.

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

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

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

Medical marihuana grower means a use where a person holding a state operating license under the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and a marihuana facility license under Chapter 845 of the Codified Ordinances of the City of Traverse City cultivates, dries, trims, or cures and packages medical marihuana for sale to a processor or provisioning center.

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

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Medical marihuana processor means a use where a person holding a state license under the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and a marihuana facility license under Chapter 845 of the Codified Ordinances of the City of Traverse City purchases medical marihuana from a medical marihuana grower and extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a medical marihuana provisioning center.

Medical marihuana safety compliance facility means a use where a person holding a state operating license under the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and a marihuana facility license under Chapter 845 of the Codified Ordinances of the City of Traverse City takes medical marihuana from a marihuana facility or receives medical marihuana from a registered primary caregiver, tests the medical marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the medical marihuana to the marihuana facility.

Medical marihuana secure transporter means a use where a person holding a state license under the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and a marihuana facility license under Chapter 845 of the Codified Ordinances of the City of Traverse City stores medical marihuana and transports medical marihuana between medical marihuana facilities for a fee.

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

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

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

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

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

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

Parcel. See a "lot."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Priority Riparian Area is a subset area of the Riparian Buffer Zone, defined as follows: a 10-foot wide area measured landward from the Ordinary High Water Mark and extending parallel to the river, lake or water body shoreline.

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Pruning means the targeted removal of diseased, damaged, dead or overgrown branches or stems to increase fruitfulness and growth. Pruning does not mean the complete removal or damaging of a tree to intentionally prevent growth.

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

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

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

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

Residential care and treatment facility means a facility providing:

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

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

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

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

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

Riparian buffer zone means all land located within twenty-five (25) feet of the ordinary high water mark of Grand Traverse Bay, Boardman Lake, and Kids Creek and Boardman River.

Deleted: and

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

Deleted: ten (10) feet of the ordinary high water mark of Kids Creek and Boardman River.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Tree Canopy Cover means:

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

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

Tourist home, low intensity means a single-family dwelling that is a primary residence which is owned and hosted in residence by the owner renting out not more than 2 rooms for compensation, limited to not more than 2 adults per room, to persons who do not stay for more than 14 consecutive days for no greater than 84 guest nights per year.

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

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

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

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

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

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

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

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

Woody plant means:

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

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

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

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

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

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

The effective date of this Ordinance is the _____ day of _____, 2020.

I hereby certify the above ordinance amendment was introduced on _____, 2020, at a regular meeting of the City Commission and was enacted on _____, 2020, 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.

James Carruthers, 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 _____.

Benjamin C. Marentette, City Clerk