

# CHAPTER 1364

## 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.

### CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i  
 Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581  
 Regulation of buildings; authority to zone - MCLA 125.582  
 Regulation of congested areas - MCLA 125.583  
 Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a  
 Signs - B & H Chapter 1476

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### 1364.01 TYPES OF SPECIAL LAND USE PERMIT REVIEW.

- (a) **Types of Procedure.** Special Land Use Permits (SLUP's) 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.
- (b) **City Commission SLUP's.** 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) *Clustered single family dwellings* allowed in an R-1a, R-1b or R-2 district.
  - (3) *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) *Convention centers* in a D district.
  - (5) *Conversions of one-family to two-family dwellings* in an R-1a or R-1b district.
  - (6) *Correctional institutions* allowed in a GP district.
  - (7) *Drive-throughs for finance services* in C-4 and D districts.
  - (8) *Essential services structures.*

- (9) *Group day care homes, including adult daycare* in an R-1a, R-1b, R-2, R-9, R-15 and R-29 district.
  - (10) *Residential care and treatment facilities* allowed in an R-9, R-15, R-29, HR, C-1, C-2, C-3 or H-1 or H-2 district.
  - (11) *Schools* allowed in an R-1a, R-1b, R-2, R-9, R-15, R-29, C-1, C-2, C-3 or GP district.
  - (12) *Stores, retail, over 8,000 square feet per floor* in a D district.
  - (13) *Taller buildings* allowed in a C-4b, C-4c, D, GP, NMC-2 or H-2 district.
  - (14) *Temporary accessory dwelling units* in an RC, R-1a or R-1b district.
  - (15) *Theaters, live, and performance art centers* allowed in an R-9, R-15 or R-29, Multiple Family Dwelling District.
  - (16) *Transitional housing and Emergency shelters* allowed in an HR, C-1, C-2, C-3, D-1, D-2, D-3, H-1 or H-2 or I district.
  - (17) *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) *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.
- (c) **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) *Communication antennas* in all districts.
  - (3) *Group day care homes, including adult daycare* in an R-1a, R-1b, R-2, R-9, R-15 and R-29 district.
  - (4) *Landing areas* in an H or GP district.
  - (5) *Parking area, private*, in a C-4 district if public parking is available within 500 feet of an allowed use;
  - (6) *Parking area construction deferral.*
  - (7) *Places of worship* in an R-1a, R-1b, R-2, R-9, R-15 and R-29 district.

(Ord. 496. Passed 7-6-99. Ord. 676. Passed 5-02-05. Ord. 710. Passed 10-2-06. Ord. 780. Passed 1-7-08. Ord. 784. Passed 3-17-08. Ord. 871. Passed 7-19-10. Ord. 897. Passed 12-6-10, Ord. 939 Passed 4-2-12 Ord. 971. Passed 6-3-13. Ord. 999. Passed 7-7-14).

## **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:

- (a) The use shall be designed, constructed, operated and maintained so as to be harmonious and compatible in appearance with the intended character of vicinity.
- (b) The use shall not be hazardous nor disturbing to existing or planned uses in the vicinity.
- (c) 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.
- (d) The use shall not create excessive additional requirements for infrastructure, facilities, and services provided at public expense.
- (e) 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.

- (f) 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.
- (g) 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.
- (h) The use shall be consistent with the intent and purposes of the zoning district in which it is proposed.

(Ord. 476. Passed 7-6-99. Ord. 670. Passed 03-21-05. Ord. 831 Passed 5-4-09.)

### **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 one 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:

- (a) A site plan as described by this Zoning Code;
- (b) A statement of present ownership of all land which is the subject of the request;
- (c) An application fee. This application fee shall be non-refundable. The City Commission shall, by resolution, establish the amount of the application fee.
- (d) 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.
- (e) If the application is approved, the applicants shall pay all Register of Deeds recording fees to record the special land use permit.

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

### **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:

- (a) **Pre-application conference.** Before submitting an application, the applicant shall meet with
  - (1) the Planning Director to review the proposed project, the Traverse City Code of Ordinances, and any planning documents that relate to the property.
- (b) **Application.** A special land use permit application shall be submitted to the Planning Commission for review and recommendation.
- (c) **Public hearings.**
  - (1) 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.
  - (2) 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 fifteen 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:

- A. The owners of the property for which approval is being considered;
- B. All persons to whom real property is assessed within 300 feet of the boundary of the property in question; and
- C. At least one occupant of each dwelling unit or spacial 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 four 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.

(d) **Notice.** The notice of the City Commission public hearing shall contain:

- (1) A description of the nature of the special land use request;
- (2) 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
- (3) The time and place of consideration of and public hearing on the special land use request; and
- (4) When and where written comments will be received concerning the request.

(e) **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.

(f) **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.

(g) **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.

(Ord. 476. Passed 7-6-99. Ord. 670. Passed 03-21-05. Ord. 721. Passed 2-5-07)

**1364.05 ADMINISTRATIVE PROCEDURE FOR APPROVAL.**

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

- (a) **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.
- (b) **Application.** A special land use application shall be submitted to the Planning Director for review and decision.
- (c) **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 one 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 fifteen 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 one occupant of a structure unless there is more than one dwelling unit, in which case one occupant of each unit shall be given notice. Such notice shall do the following:
  - (1) Describe the nature of the special land use request;
  - (2) Indicate the property which is the subject of the special land use request;
  - (3) State when and where the special land use request will be considered and;
  - (4) Indicate when and where comments will be received concerning the request;
  - (5) 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.
- (d) **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.
- (e) **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.
- (f) **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.

- (g) **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.
- (h) **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

(Ord. 701. Passed 5-1-06. Ord. 777. Passed 12-3-07.)

### **1364.06 AMENDMENTS.**

A SLUP order may be amended as follows:

- (a) **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.
- (b) **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.

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

### **1364.07 TERMINATION OF ORDERS.**

A special land use order shall expire two 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 one 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.

(Ord. 476. Passed 7-6-99. Ord. 708. Passed 10-2-06.)

**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:

(a) ***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:

- (1) The building is for an allowed use;
- (2) The minimum yard requirements may be changed by the Planning Commission based upon topography and existing site limitations (i.e, water, roads, neighboring buildings).
- (3) Traffic related to the use shall not substantially increase congestion on surrounding streets and intersections.
- (4) The use is not likely to create excessive noise across the real property boundary.

(b) ***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:

- (1) The use is located in an R-1a, R-1b or R-2 district.
- (2) The property is of at least five contiguous acres under single ownership and control.
- (3) The development must meet the front, side and rear-yard setback requirements of the district on the periphery of the parcel. More than one 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.
- (4) 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).
- (5) Townhouses are permitted, provided there are no more than four 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;
- (6) 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 six 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 two-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.

- (7) Trash containers shall be properly screened.
  - (8) All other standards not specifically altered in the zoning district shall apply to clustered housing.
- (c) **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:
- (1) 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.
  - (2) The communication tower complies with all applicable FCC and FAA regulations and all applicable building codes.
  - (3) 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.
  - (4) 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.
  - (5) 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.
  - (6) 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.
  - (7) Cabinets housing operating equipment shall be architecturally screened from adjacent properties and street level views.
  - (8) Existing mature trees and natural land forms on the site are preserved to the maximum extent possible.
  - (9) 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.

- (d) **Convention centers** in a D district, subject to the following:
  - (1) The building is limited to 30,000 square feet;
  - (2) Thirty five percent of the building facade shall be windows or other street level activity;
  - (3) A traffic and economic impact analysis to assess impacts on neighboring streets is provided by the applicant.
- (e) **Conversions of one-family dwellings to two-family dwellings** in a R-1a or R-1b district, subject to the following:
  - (1) 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.
  - (2) The dwelling is a minimum of twenty 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.
  - (3) The lot area is not less than 4,000 square feet per proposed dwelling unit.
  - (4) A minimum of 800 square feet of interior living area is required for a one bedroom dwelling unit and 1,200 square feet of living area is required for a two bedroom dwelling unit. In no case shall any secondary dwelling unit provide more than two bedrooms.
  - (5) The dwelling has a minimum of 2,800 square feet of living area exclusive of any basement or third story area.
  - (6) 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.
  - (7) No part of a dwelling unit, other than storage, exists above the second story.
  - (8) Access to a second floor dwelling unit is provided from the interior of the structure.
  - (9) The exterior appearance of the structure is not altered from its single-family character.
  - (10) Off-street parking is provided as required by this Zoning Code.
- (f) **Correctional institutions** subject to the following:
  - (1) The use is located in a GP district.
  - (2) All open recreational areas shall be in completely enclosed courtyards.
  - (3) Cell windows and openings shall be screened from the public street view.
  - (4) A master site and facilities plan shall be submitted.
- (g) **Drive-throughs for finance services in C-4 and D districts** subject to the following:
  - (1) The drive-through meets all of the standards of Section 1374.06, unless a more restrictive standard is imposed by this section.
  - (2) 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.
  - (3) The drive-through shall be limited to two service lanes.

- (4) The building associated with the drive-through shall be streetward of the approach lanes to screen the vehicle service lanes.
- (h) **Essential services structures.** Are subject to the following:
- (1) 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.
  - (2) Noise, lights, glare and odor will not disturb the surrounding land uses or members of the public.
  - (3) Fencing or other adequate security is constructed to adequately protect the public.
  - (4) 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.
  - (5) Evidence of the appropriate franchise, license or other required governmental permission is demonstrated.
  - (6) 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.
- (i) **Group day care homes, including adult day care,** in an R-1a, R-1b, R-2, R-9, R-15 and R-29 as defined by MCL 722.111 et seq, as amended, subject to the following specific requirements, except child care centers located in and operated by hospitals and churches having a valid special land use permit for off-street parking in any R-District:
- (1) 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.
  - (2) The lot is not located within 1,500 feet of another lot devoted to such use.
  - (3) For child day centers, fenced outside recreation areas of 1,200 square feet or more of playable ground surface 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 circumstances.
  - (4) The use is not allowed in an apartment.
  - (5) The use is limited to an established and recognized work or shift period and shall not be operated on a 24-hour basis unless approved by the Planning Commission.
  - (6) The premises are approved by the City Fire Marshal prior to the issuance of the special land use permit and at least annually thereafter to maintain the special land use permit.
  - (7) For child care centers, "Approved Child Care Provider" identification is prominently displayed in a street side window so as to be clearly identifiable from the public street, or as otherwise required by the City Commission.
  - (8) 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, four parking spaces shall be provided on premise.
  - (9) 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.
- (j) **Residential care and treatment facilities** subject to the following:
- (1) The use is located in an R-9, R-15, R-29, HR, C-1, C-2, C-3 or H-1 or H-2

district.

- (2) 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.
  - (3) Off-street parking is provided as required by this Zoning Code, except that the Planning Commission may vary the number of parking spaces required.
  - (4) 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.
  - (5) 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.
  - (6) 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.
  - (7) All necessary licenses are obtained and maintained.
  - (8) 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 seven 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).
- (k) **Schools** subject to the following:
- (1) The use is located in an R-1a, R-1b, R-2, R-9, R-15, R-29, C-1, C-2 C-3 or GP district.
  - (2) A master site and facilities plan is submitted to and approved by the Planning Commission showing:
    - A. Existing facilities and planned facilities for the ensuing five years.
    - B. Adequate street crossing facilities, pedestrian routes and projected number of pedestrians.
    - C. Sufficient areas for motor vehicle and bus circulation routes, together with areas for pick up and drop off of students.
    - D. 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.
    - E. The building and parking area shall not exceed 70 percent of the lot area.
  - (3) A traffic study must be submitted to the Planning Commission.
- (l) **Stores, retail, over 8,000 square feet per floor** in a D district, subject to the following:
- (1) The building is limited to 30,000 square feet;
  - (2) Thirty five percent of the building facade shall be windows or other street level activity;
  - (3) A traffic and economic impact analysis to assess impacts on neighboring streets is provided by the applicant.
- (m) **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:

- (1) The building's height is consistent with Section 1368.01.
- (2) 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.
- (3) 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.
- (4) 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.

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

- (1) The existing site and use are substantially in compliance with this Zoning Code.
- (2) The floor area of the TAD unit is not larger than 676 square feet.
- (3) 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.
- (4) A TAD unit is developed within an existing single-family and/or usual accessory use under this Zoning Code.
- (5) 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 three years from the date of approval and thereafter every five years.
- (6) 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.
- (7) 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.

(o) **Transit centers**, subject to the following:

- (1) The center is located in a C-4, D-2, D-3 or GP district.
- (2) Buses can directly access the center without being dependent upon an access or sub collector street in a residential district.
- (3) Existing streets in the area accommodate the projected bus traffic.
- (4) The location of the center lends itself to an integrated transportation system (i.e., walk, bus, bike, rail).
- (5) The center is within one quarter mile to a high concentration of job sites or dwellings.
- (6) Noise, lights, glare and odor will not unreasonably disturb the surrounding land uses or members of the public.
- (7) If potential adverse effects have been identified, alternative sites have been

examined and determined by the applicant not to be feasible.

(8) No transit vehicle fueling, repair or storage is allowed.

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

(1) The use must have existed prior to 2005.

(2) 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.

(3) Additions are architecturally compatible with the existing structure and the character of the neighborhood.

(4) The applicant submits a parking plan that demonstrates there is sufficient parking within 500 feet to meet the theater's parking demand.

(5) On-site exterior lighting is directed to minimize impacts on adjacent residential areas.

(6) Performances are not allowed between the hours of 12:00 midnight and 8:00 a.m.

(q) ***Transitional housing and Emergency shelters***, subject to the following:

(1) 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.

(2) The site is located within a ½ mile of a bus stop connected by sidewalks or bike trails.

(3) The lot is not located within 1,500 feet of another lot devoted to transitional housing or emergency shelter.

(4) The facility shall have a maximum of 100 beds and/or sleeping pads.

(5) The building provides 50 square feet of heated building space per person staying overnight at the facility.

(6) The operator of the Emergency shelter shall provide continuous, on-site supervision by an employee or volunteer during all hours of operation.

(7) 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.

(8) 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.

(9) Parking requirements would be determined by the Planning Director based on the intensity of the operation described in the management plan.

(r) ***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:

(1) 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.

(2) Guy wires are only permitted to be used in the I and T districts.

(3) The free-standing wind energy system complies with all applicable FCC and FAA

regulations and all applicable building codes.

- (4) 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.
  - (5) 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% 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.
  - (6) 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.
  - (7) 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.
  - (8) Wind energy system cabinets housing operating equipment shall be architecturally screened from adjacent properties and street level views.
  - (9) Existing mature trees and natural land forms on the site are preserved to the maximum extent possible.
  - (10) 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.
  - (11) 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 five dBA.
- (s) ***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:
- (1) 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 Districts.
  - (2) 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.
  - (3) Guy wires are only permitted to be used in the I and T districts.
  - (4) The building-mounted wind energy system complies with all applicable FCC and FAA regulations and all applicable building codes.

- (5) 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.
- (6) The setback can be reduced by up to 50% 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.
- (7) 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.
- (8) 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.
- (9) Wind energy system cabinets housing operating equipment shall be architecturally screened from adjacent properties and street level views.
- (10) Existing mature trees and natural land forms on the site are preserved to the maximum extent possible.
- (11) 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.
- (12) 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 five dBA.

(Ord. 476. Passed 7-6-99. Ord. 527. Passed 3-19-01. Ord. 556. Passed 2-4-02. Ord. 592. Passed 1-06-03. Ord. 620. Passed 2-2-04. Ord. 676. Passed 05-02-05. Ord 688. Passed 10-03-05. Ord. 740. Passed 3-19-07. Ord. 780. Passed 1-7-08. Ord. 785. Passed 3-17-08. Ord. 871. Passed 7-19-10. Ord. 932 Passed 2-6-12 Ord. 938. Passed 4-2-12. Ord. 971. Passed 6-3-13. Ord. 1000. Passed 7-7-14. Ord. 1029. Passed 1-4-16)

### **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:

- (a) Adult foster care small group home in an R-C, R-1a, R-1b and R-2 subject to the following specific requirements:
  - (1) 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.
- (2) The adult foster care licensee shall be a member of the household and an occupant of the residence.
  - (3) The lot is not located within 500 feet of another lot devoted to such use.
  - (4) The use is not allowed in an apartment.
  - (5) 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, two parking spaces shall be provided on premise.
- (b) **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:
- (1) 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.
  - (2) The antenna(s) is no taller than 8 feet above a building or structure.
  - (3) 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.
  - (4) 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.
  - (5) 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.
  - (6) All necessary licenses shall be obtained and maintained.
  - (7) The antenna(s) and operating equipment shall comply with the general standards for approval contained in this chapter.
- (c) Group day care homes, including adult day care, in an R-1a, R-1b, R-2, R-9, R-15 and R-29 as defined by MCL 722.111 et seq, as amended, subject to the following specific requirements, except child care centers located in and operated by hospitals and churches having a valid special land use permit for off-street parking in any R-District:
- (1) 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.
  - (2) The lot is not located within 500 feet of another lot devoted to such use.
  - (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 circumstances.
  - (4) The use is not allowed in an apartment.
  - (5) The use is limited to an established and recognized work or shift period and shall not be operated on a 24-hour basis unless approved by the Planning Commission.
  - (6) 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, two parking spaces shall be provided on premise.

- (7) 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.
- (d) **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:
- (1) The use is located in an H-1, H-2, or GP district.
  - (2) A noise contour map shall be constructed and overlaid on a land use map.
  - (3) The noise contours shall be based on the noise exposure forecasts.
  - (4) Noise loads shall not exceed maximum recommended FAA noise standards for residentially developed areas.
- (e) **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:
- (1) No buildings may be removed or demolished to provide the private parking area.
  - (2) Access shall be from an alley or adjacent property only, not from a public street.
  - (3) All requirements of Chapter 1374, *Circulation and Parking*, are met, except Section 1374.03(d), *Parking space requirements*.
  - (4) All requirements of Sections 1372.06, *Screening requirements for parking areas*, and 1372.08, *Landscape development internal to a parking area* are met.
  - (5) Pedestrian travel routes within the parking area shall be provided, clearly defined and approved by the Planning Director.
- (f) **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.
- (1) **Standards.** The following standards shall be met for the approval of any parking deferral:
    - A. The property must be located in a GP or I district.
    - B. No more than 50 percent of the parking otherwise required by this Code shall be deferred.
    - C. The area of the site where parking has been deferred shall remain clear of any new structure.
    - D. 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.
    - E. 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.
  - (2) **Process.** In addition to other special land use application requirements, the following shall be submitted for review and approval:
    - A. A completed application for parking deferral signed by the landowner and business owner as applicants
    - B. 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.

C. 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.

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

- (1) The building shall be designed and used primarily for worship.
- (2) The use and related parking shall not necessitate the removal of any historically significant structure as determined by the Historic Districts Commission.
- (3) 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.
- (4) On street parking within 600 feet from the site may account for up to fifty percent of the required parking. All off-street parking shall be located to the rear of the primary building.
- (5) The building and parking area shall not exceed 70 percent of the lot area.
- (6) Parking is allowed in an R-District if associated with a building located in an R-District.

(Ord. 476. Passed 7-6-99 Ord. 586. Passed 11-04-02. Ord. 629. Passed 3-15-04. Ord 711 Passed 10-2-06. Ord. 786. Passed 3-17-08. Ord. 871. Passed 7-19-10. Ord. 897. Passed 12-6-10.)