

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: Amendment to allow the Planning Director the ability to waive setback requirements to save an existing tree and an amendment to amend land use permit applicability to clarify that land clearing requires a land use permit

THE CITY OF TRAVERSE CITY ORDAINS:

That the *Land Use Permits*, Section 1322.01 in Chapter 1372 Administration, Enforcement and Penalty; *Encroachments into the setbacks*, Section 1332.05 in Chapter 1332 Single-Family Dwelling Districts; *Encroachments into the setbacks*, Section 1334.05 in Chapter 1334 Two-Family Dwelling District and *Alternative compliance*, Section 1372.02 in Chapter 1372 Landscaping of the Zoning Code of the Traverse City Code of Ordinances, be amended to read in its entirety as follows:

1322.01 - Land use permits.

- (a) *Permit required.* A land use permit is required in the following circumstances:
- (1) ~~b~~Before a building or structure is built, rebuilt, converted, enlarged, demolished or structurally altered when such activity requires a building permit.
 - (2) ~~and b~~Before land clearing (as defined in this Code).
 - (3) ~~A land use permit is also required b~~Before a parking area is constructed, reconstructed or enlarged.
 - (4) *Exception.* Interior structural alterations for one- or two-family dwellings that do not result in a change in use or an expansion of a non-conforming use do not require land use permits.
- (b) *Foundation only approval prohibited.* In no case shall a land use permit be issued for the construction of foundations only.
- (c) *Application forms.* The Planning Director shall have application forms for a land use permits available at the office of the Planning Director.
- (d) *Site plans.* All land use permit applications shall be accompanied by an accurate site plan or diagram complying with the requirements of this Code.
- (e) *Survey.* When requested by the Planning Director, all dimensions shown on the site plan relating to the locations and size of the lot shall be based on an actual survey and the lot shall be staked out on the ground before construction is started.
- (f) *Records.* The original copy of such applications and site plans shall be kept by the Planning Director and a copy shall be kept at the site at all times during construction.
- (g) *Fees.* Land use permit application fees shall be established by resolution of the City Commission. A special fee may be required for any project which may, in the discretion of the Planning Director or Planning Commission, create an identifiable and potentially negative impact on public infrastructure or services or upon adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made. The Planning Director may require and hold such fee in escrow to be used when the professional services must be paid.
- (h) *Expiration of permit.* Unless the land use permit states differently, a permit expires after 24 months from the date of granting such permit if the activity is not at least 75 percent completed, and after 36 months if not 100 percent completed. Completion percentages shall be determined in the sole discretion of the Planning Director, subject to appeal to the Board of Zoning Appeals.

- (i) *Revocation.* The Planning Director may revoke any land use permit for failure to comply with any provisions of this Code, the application or permit or for a material error, false statement or misrepresentation made in the application. The owner or owner's agent shall be notified of such revocation in writing. Upon such revocation, all further construction activities and new use of the site shall cease, other than for the purpose of correcting the violation. The Planning Director may suspend any land use permit if there are reasonable grounds for revocation and may issue a stop work order to halt all construction activities and land use pending a decision on revoking the permit.
- (j) *Relation to non-conforming uses.* It is not necessary for an owner of a legal nonconforming structure or use to obtain a land use permit in order to maintain its legal, nonconforming status. However, no Class I non-conforming use shall be changed or extended until a land use permit has been issued by the Planning Director. In such cases the permit shall state specifically how the nonconforming use differs from the provisions of this Code.

1332.05 - Encroachments into the setbacks.

No encroachments into the required setbacks are allowed except:

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

1334.05 - Encroachments into the setbacks.

No encroachments into required setbacks are allowed except:

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

1372.02 - Alternative compliance.

The Planning Director may approve variations from strict compliance with this chapter when there is no feasible alternative and an applicant can demonstrate that at least one of the following apply to a specific development site:

- (1) When topography, shape, size or other natural features make full compliance impractical or impossible.
- (2) When space limitations or prevailing development patterns in the surrounding neighborhood justify alternative compliance for in fill projects and redevelopment in older established areas of the City.
- (3) When safety considerations warrant alternative compliance.
- (4) When there is not an alternative in the practical siting of a building, location of site access or the location of underground utilities to service the site.
- (5) When the alternative compliance plan is equal to or superior in its ability to fulfill the intent of this chapter.
- (6) When a required setback would necessitate the removal of an existing tree greater than or equal to 6 inches diameter at breast height.

The effective date of this Ordinance is the _____ day of _____, 2019.

I hereby certify the above ordinance amendment was introduced on _____, 2019, at a regular meeting of the City Commission and was enacted on _____, 2019, 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