

# Evangeline Township ZONING ORDINANCE



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Planning Assistance Provided by:

**Mary Campbell, M.C. Planning & Design**

504 Liberty Street, Petoskey, MI 49770

(231) 487-0745 [mcampbell@mcplanningdesign.com](mailto:mcampbell@mcplanningdesign.com)

# **Evangeline Township Zoning Ordinance**

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# **Evangeline Township Zoning Ordinance**

## **Preamble**

An Ordinance to provide for the establishment of Zoning Districts to encourage and regulate the use of land and proper location of buildings and structures for residence, trade, industry, or other purposes; to regulate dimensions of yards, and other spaces; to provide for the administration, enforcement, penalties for violation, and amendment of this Ordinance.

## **Article I: – Short Title and Purpose**

### **Section 1.01 – Title**

This Ordinance shall be known as the Evangeline Township Zoning Ordinance.

### **Section 1.02 – Purpose**

The purpose of the Ordinance is to:

- A.** Provide for the orderly development of the Township while minimizing the impacts of incompatible adjoining land uses and preventing nuisances from interfering with the reasonable use and enjoyment of private property. In all cases, it is the purpose of this Ordinance to regulate the use of real property so that it does not adversely impact upon broader public interest;
- B.** Insure the public health, safety and general welfare;
- C.** Promote the use of lands and natural resources of the Township in accordance with their character and adaptability and, in turn, limit their improper use;
- D.** Reduce hazards to life and property;
- E.** Lessen congestion on the public roads and streets;
- F.** Provide, in the interests of health and safety, the minimum standards under which certain buildings and structures may hereafter be erected and used;
- G.** Facilitate the development of an adequate system of transportation, education, recreation, sewage disposal, safe and adequate water supply and other public requirements;
- H.** Conserve life, property and natural resources and the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.

### **Section 1.03 – Authority**

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006.

#### **Section 1.04 – Validity**

This Ordinance and various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

#### **Section 1.05 – Repeal of Previous Zoning Ordinance**

- A.** This Ordinance repeals and replaces any previous Evangeline Township Zoning Ordinance in its entirety.
- B.** The repeal of the Evangeline Township Zoning Ordinance as amended 1998, as provided, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred there under or actions involving any provisions of said Ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

## Article II – Definitions

### Section 2.01 – Definitions

For the purpose of this Ordinance, certain terms used are herein defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular include the plural number, and conversely. The word "shall" is always mandatory and not merely discretionary. Whenever the word "owner" appears it is to be interpreted as including the owner, his agent, or the lessee, as the case may be.

**Access Drive:** That portion of a lot, parcel or site condominium unit used for access between the building envelope and either a public road or private road.

**Accessory Building:** Any building not attached to the principal building or structure and that is customarily incidental and subordinate to the use of the principal building, or structure including but not limited to a garage, shed or storage building. Accessory buildings that accommodate sleeping and/or living space constitute or include an accessory dwelling and shall comply with the requirements of an accessory dwelling as allowed; including the approval and issuance of a zoning permit. (amended: August 9, 2016)

**Accessory Dwelling:** See Dwelling, Accessory

**Accessory Structure:** Any building or structure that is customarily incidental and subordinate to the use of the principal building or structure, including but not limited to, accessory buildings, detached decks, satellite dishes, or signs. (amended: August 4, 2009)

**Accessory Uses:** A use of any building, structure, or parcel(s) of property that is customarily incidental and subordinate to the principal use and that does not alter the characteristics (interior, exterior or otherwise) of the building, structure, or property.

**Adult Book and/or Video Store:** An establishment having, as a substantial or significant portion of its stock in trade or business, books, videotapes, CDs, DVDs, computer software, computer services, magazines and other periodicals or other writings which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or specified anatomical areas," hereinafter defined.

**Adult Live Entertainment Establishments:** Establishments, regardless of whether alcoholic beverages may or may not be served, which include a nightclub, bar, restaurant, or similar commercial establishment, which features (a) Persons who appear nude or in a "state of nudity" or "semi-nude"; and/or (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

**Adult Motion Picture Theater:** An enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or specified anatomical areas," as hereinafter defined for observation by patrons therein.

**Adult Mini Motion Picture Theater:** An enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined for observation by patrons therein.

**Adult Panorama:** An establishment which has a substantial or significant portion of its business devoted to the viewing by patrons of films, tapes, or live entertainment showing "specified sexual activities" or

"specified anatomical areas".

**Adult Paraphernalia/Novelty Store:** An establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.

**Agriculture:** The use of land and/or structures as a farm.

**Alley:** A right-of-way intended to provide service access to the rear or side of lots or buildings and not intended for transporting through traffic.

**Alterations:** Any change, addition or modification in construction or type of use or occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed".

**Alternative Tower Structure:** Any structure which, if intended to be used to locate an antenna or tower, may accommodate and conceal the presence of said antenna or tower, including, but not limited to, man-made trees, clock towers, bell steeples, water towers, light poles and silos.

**Anemometer:** An instrument for measuring and recording the speed of the wind.

**Anemometer Tower:** A structure, including all accessory facilities, temporarily erected for no more than two (2) years, on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

**Antenna:** Any exterior transmitting or receiving device mounted on a tower, building, structure or Alternative Tower Structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**Appearance Ticket:** See Municipal Civil Infraction Citation.

**Applicant:** A person, firm, association, partnership, corporation, or combination of any of them which may hold any divisible interest in land, whether recorded or not, who is seeking approval under any provisions of this Ordinance.

**Average:** For the purpose of this Ordinance, the term "average" will be an arithmetic mean.

**Basal Area:** The cross-sectional area of all stems in a stand of trees measured at breast height and expressed as square feet per acre.

**Basement:** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average finished grade to the floor is greater than the vertical distance from the average finished grade to the ceiling.

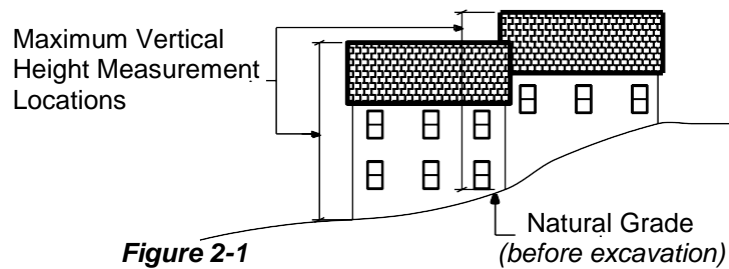
**Bed and Breakfast Establishments:** Any family-occupied dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation.

**Billboard:** See Sign, Off-premises

**Building:** Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind.

**Building Envelope:** The area upon a lot where a principal building or structure and any attached or detached accessory structures are or are intended to be constructed. For a residential use, the building envelope shall mean the area upon a lot, parcel, or site condominium unit where a dwelling and any accessory structures, including but not limited to garages, storage sheds and decks, are or are intended to be constructed.

**Building Height:** The maximum vertical distance from any portion of the roof to the natural grade. No portion of the structure's roof (except chimneys and cupolas) may exceed the height allowed in the specific District regulations. As illustrated in Figure 2-1, buildings may be "stair stepped" up and down slopes.



**Figure 2-1**

**Building Line:** The line which pertains to and defines those minimum building setbacks lines which are established parallel to the front street of right-of-way line and within setback area no part of a building shall project or be located, except as otherwise provided in this ordinance. Such line, when adjacent to a building, is normally formed by the junction of the line formed by the drip edge of a home with the finish grade or surface of the adjoining ground. (amended June 23, 2021)

**Civic Building:** Buildings and facilities owned and maintained by a public or semi-public agency, excluding religious institutions, which are used primarily for public gatherings for the purpose of promoting public education, knowledge and welfare.

**Co-Location:** The use of a telecommunication tower by more than one wireless telecommunication provider.

**Commercial Recreational Facility (low-impact):** See Low-impact Commercial Recreational Facility

**Condominium Act:** Michigan Public Act 59 of 1978 as amended.

**Condominium Project:** Any land developed under the provisions of the Condominium Act.

**Condominium Unit:** That portion of a condominium project designed and intended for occupancy and use by the unit owner consistent with the provisions of the master deed.

**Cottage Industry:** See Home Business

**Cupola:** A light architectural structure located on the roof, which is not intended for human habitation. (effective: April 21, 2010)

**dB(A):** The decibel A filter is a scale for noise measurement units, dB(A) roughly corresponds to the inverse of the 40 dB (at 1 kHz) equal-loudness curve for the human ear.

**Deck:** An open, unroofed floor construction used in conjunction with a dwelling which allows the infiltration of water to the ground below. (effective: June 14, 2012)

**Dog Kennel:** Dog kennels shall be defined as the keeping or harboring of three or more dogs, greater than four (4) months of age on a parcel of land.

**Dock:** Any structure, temporary or permanent, built over a public body of water, supported by pillars, pilings or other supporting devices.

**Dwelling:** See Dwelling Unit

**Dwelling, Accessory:** A separate building or living area accessory to a single-family residence, located either in the principal residential structure or an accessory building, such as a garage. An accessory dwelling has its own living and/or sleeping area, and may also include a bath, kitchen, and usually a separate entrance. (amended: August 9, 2017)



**Dwelling, Manufactured:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, (HUD), as amended, and
- B. The structure is designed to be transported to the site in nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on site.

**Dwelling, Mobile:** A factory-built, single-family structure that is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, which does not have wheels or axles permanently attached to its body or frame, and which is constructed according to the National Mobile Home Construction and Safety Standards Act of 1974, as amended.

**Dwelling, Multiple Family:** A building containing three or more dwelling units designed for residential use.

**Dwelling, Primary:** Structure intended as the main dwelling.

**Dwelling, Single Family:** A detached building containing not more than one dwelling unit designed for residential use.

**Dwelling, Two Family:** A building containing not more than two separate dwelling units designed for residential use.

**Dwelling Unit:** A building or portion of a building, either site built or pre-manufactured which has sleeping, living, cooking and sanitary facilities and can accommodate one family. In the case of buildings, which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for a dwelling unit. In no case shall a travel trailer, truck, bus, motor home, tent, or other such portable structures be considered a dwelling unit.

**Enclosed, locked facility:** That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. (effective: June 14, 2012)

**Environmentally Sensitive Areas:** The area of land abutting a lake, river or stream within the required setback from that lake, river or stream; wetlands; designated flood plains; and lands with slopes equal to or greater than thirty-three percent (33%).

**Erected:** Includes built, constructed, reconstructed, moved upon, or any physical operation on the land required for the building. Excavations, fill, drainage and the like shall be considered a part of erection.

**Event Center:** A structure or building intended to be a commercial establishment for social and educational activities, including but not limited to, weddings, nonprofit benefits, wine and catered events, receptions, parties, picnics, barn dances, and conferences. (adopted: July 20, 2019)

**Family:** One or more individuals occupying a dwelling unit and living as a single nonprofit housekeeping unit with a single kitchen facility as distinguished from a group of persons occupying a boarding house, tourist home, lodging house, hotel, motel, fraternity or sorority house, or a dormitory.

**Farm:** The use of contiguous, neighboring, or associated land operated as a single unit by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees for the purpose of raising and harvesting farm products for economic gain. The use of land as dog kennels, riding stables, slaughterhouses, fertilizer works, and bone yards shall not be considered farms.

**Farm Building:** A building or structure other than a dwelling, moved upon, maintained, used or built on a farm which is customarily used on farms of that type for the pursuit of agricultural activities.

**Farm Products:** Plants and animals useful to human beings and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, trees, fish, apiaries, equine and other similar products, or any other product which incorporates the use of food, feed, fiber or fur.

**Floor Area:** The area of all floors computed by measuring the dimensions of the outside walls of a building. Porches, patios, terraces, breezeways, interior utility areas, carports, verandas, garages, unfinished attics, attic floor areas with less than five (5) vertical feet from floor to finished ceiling are excluded. Floor areas of walkout basements may be considered if finished off in such a manner as to be suitable for occupancy and which contains a means of exit from each room directly to the exterior of the structure in compliance with the applicable building and fire codes. This square footage can be used for the purposes of complying with the floor area requirements of this Ordinance.

**Forest Preserve:** A forested area of land that is protected and managed in order to preserve a particular type of habitat and its flora and fauna which may be rare or endangered.

**Game Refuge:** A forest land designated for the protection of game animals, birds and fish, and closed to hunting and fishing in order that the excess population may flow and restock surrounding areas.

**Grade, Finished:** The elevation of the ground upon the completion of construction and improvements.

**Grade, Natural:** The elevation of the ground surface in its natural state, before human alterations.

**Green Belt:** An area of maintained natural vegetation between all structures on the property and the High-Water Level Elevation that extends the entire width of the property.

**Growing Season:** The time between May 20<sup>th</sup> and October 5<sup>th</sup>.

**Hazardous Substance:** A chemical or other material, which is or may become, injurious to public health, safety, or welfare or to the environment.

**High-water Level Elevation:** For Lake Charlevoix this is the highest water level elevation for Lake Michigan/Huron as recorded by the United States Army Corps of Engineers (currently 582.35' IGLD recorded in October 1986), plus one (1) foot. For Walloon Lake this level is the elevation of the outlet dam or as set by the courts, plus one-half (1/2) foot. For all other lakes and streams this level is the 100- year flood plain elevation plus one-half (1/2) foot. (Note: The High-water Level Elevation shall be measured from that point upland from the body of water where the natural grade first exceeds the High-water Level Elevation, unless a Shoreline Protection Structure, as defined, is present, in which case the Shoreline Protection Structure shall serve as the High-water Level Elevation.)

**Highway:** Any public thoroughfare, road or street, except alleys including Charlevoix County, Federal and State roads and highways.

**Home Business:** A profession or occupation, or trade that is accessory to a principal residential use conducted within a dwelling or residential accessory building. Home businesses fall into two classifications defined below:

- A. **Home Occupations:** A profession or occupation conducted within a dwelling, or attached garage which is clearly incidental and secondary to the use of the lot, or dwelling for residential purposes. Home occupations are regulated by **Section 3.15**.
- B. **Cottage Industry:** An occupation or trade conducted within a detached residential accessory structure, which is clearly incidental and secondary to the use of the lot, and dwelling for residential purposes. Cottage industries are regulated by **Section 3.15**.

**Impervious Surface:** Any surface or structure incapable of or highly resistant to penetration by water including, but not limited to, roofs of any type, concrete, asphalt or bituminous paving, compacted gravel, or earth, flagstone or brick. (effective April 21, 2010)

**Inoperable Vehicle:** Includes any vehicle without current insurance, a current license, registration or certification to operate in the air, on the water, or public street, road, highway or public right-of-way.

**Kennel:** See Dog Kennel.

**Land:** The surface area known as real estate.

**Land Division Act:** Michigan Public Act 288 of 1967, as amended.

**Lot:** A parcel of land, excluding any applicable road right-of-way, or site condominium unit occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width as required by this Ordinance for the Zoning District in which it is located.

**Lot Coverage:** The percentage (%) of the lot covered by buildings, driveways, sidewalks, parking areas, loading docks, or other structures or other impervious surfaces which impede the free infiltration of water.

**Lot Line, Front:** The lot line of the property that borders on a road. Where a lot is a corner lot there shall be two front lot lines, and the setback from the front yard shall be maintained on each front yard.

**Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of a lot irregularly shaped at the rear, it is an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.

**Lot Line, Side:** Any lot line which is neither the front nor rear lot line.

**Lot Line, Waterfront:** A lot line that borders on a lake, river or stream, located at the High-Water Level Elevation.

**Lot of Record:** A lot defined by a legal description and described by a legal instrument such as a warranty deed, quit claim deed, master deed or land contract recorded in the office of the Charlevoix County Register of Deeds Office on or before the effective date of this Ordinance, and any amendments of this Ordinance. (effective April 21, 2010)

**Lot, Waterfront:** A lot having frontage directly on a lake, river or stream. The portion of the lot adjacent to the water is considered waterfront.

**Low-impact Commercial Recreational Facilities:** The outdoor use of land for zip lines, mountain bike trails, climbing walls, and non-motorized trails that are operated by the owner of the land on which such activities are conducted for economic gain. The Planning Commission may find that other activities may be included in this definition upon a finding that the unlisted activities have the same general, low-impact characteristics on the land as the listed activities. (adopted February 1, 2011)

**Manufactured Home:** See Dwelling, Manufactured.

**Manufactured Housing Community:** Any site, lot, field, tract, or parcel of land upon which two (2) or more occupied mobile homes are harbored either free of charge or for revenue purposes and shall include any structure, building, or enclosure used or intended for use as a part of the equipment of such community.

**Marijuana or marihuana:** That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106. (effective: June 14, 2012)

**Massage Parlor:** Any establishment having a fixed place of business where massages are administered for pay, including but not limited to Massage Parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the hands, feet, scalp, face, neck or shoulder. This definition shall not be construed to include the practices of massage therapists who meet one or more of the following criteria:

- Proof of graduation from a school of massage licensed by the State of Michigan; Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus, three references from massage therapists who are professional members of a massage association referred to in this Section;
- Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards and/or;
- A current occupational license from another state.

**Master Deed:** The legal document prepared and recorded pursuant to the Condominium Act, within which are, or to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

**Master Parcel:** A lot or combination of contiguous lots, under one ownership as of July 1992, from which other lots are created. In those situations where a Master Parcel is divided by a Zoning District boundary line, for purposes of this Ordinance, each portion shall be considered an individual Master Parcel.

**Medical Use:** That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. (effective: June 14, 2012)

**Mobile Home:** See Dwelling, Mobile.

**Municipal Civil Infraction Citation:** A written complaint prepared by an authorized Township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

**Natural Vegetation Waterfront Buffer Strip:** A strip of land ranging between 25' and 50' of depth, beginning at the documented high-water elevation, measured inland away from the water toward the developable area of a waterfront lot, in which the natural vegetation shall not be disturbed except as allowed in district regulations, or to add a mixture of planted trees and low growing woody shrub species native to the area and suitable for the site.

**Net Acreage:** The area of the lot, excluding land defined as environmentally sensitive in this Ordinance, or recorded easements.

**Noncommercial Recreation Facility:** Private or semi-private recreational facility not operated for commercial gain, including private country clubs, riding clubs, golf courses, game preserves, ski slopes, and hunting, fishing, or trapping clubs.

**Nonconforming Lot of Record:** A lot of record that legally existed on or before the effective date of this Ordinance or any amendment to this Ordinance and does not meet dimensional requirements of this Ordinance or amendment.

**Nonconforming Structure:** A building, structure, or portion thereof that lawfully existed before the effective date of this ordinance or any amendment to this ordinance and that does not meet the floor area, setback, parking or other dimensional regulations for the Zoning District in which such building or structure is located.

**Nonconforming Use:** Use of property or structure that was lawful at the time of the adoption of this Ordinance or an amendment of this Ordinance, but which does not presently conform with the Ordinance requirements, for the Zoning District in which it is located.

**Off-Premises Sign:** See Sign, Off-Premises

**Open Dance Hall:** An establishment where open public dancing by patrons is available during at least four days per week with partners furnished by the establishment.

**Parent Parcel:** See Master Parcel.

**Planning Commission:** The Evangeline Township Planning Commission established and whose duties are pursuant to the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

**Primary caregiver:** That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marijuana Act. (effective: June 14, 2012)

**Primary caregiver facility:** The dwelling in which a primary caregiver resides, or an accessory building to that dwelling, within which the primary caregiver performs primary caregiver services for qualifying patients. (effective: June 14, 2012)

**Principal Use:** The main or central purpose (use) to which a lot or parcel is devoted.

**Public Utilities:** Any utilities which fall under the jurisdiction of the Michigan Public Service Commission.

**Qualifying patient:** That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marijuana Act, and includes the parents or legal guardians of a qualifying patient under the age of 18 who are serving as the primary caregiver as required by the Michigan Medical Marijuana Act exclusively for that qualifying patient under the age of 18. (effective: June 14, 2012)

**Raceways:** Any trails, designated paths, routes, or roadways designed for the purpose of racing horses, automobiles, motorcycles, ATVs, snowmobiles or trucks.

**Recreation Facility:** An area, including buildings, grounds and equipment, which is intended for entertainment or leisure activities.

**Recreational Unit:** A vehicular-type unit, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. Recreational unit includes, but is not limited, to terms of common reference such as: travel trailer, recreational vehicle (RV), truck camper, pop-up camper, slide in camper or chassis mount camper. A recreational vehicle is not a mobile home or manufactured home as defined under this ordinance or under Section 2 of the Mobile Home Commission Act.

**Recreational Vehicle:** see Recreational Unit.

**Replacement Cost:** Cost of new construction minus depreciation, as determined by an individual licensed to perform real estate appraisals in Michigan.

**Road, Private:** Any road which is privately constructed and has not been accepted for maintenance by the Charlevoix County Road Commission, State of Michigan or the federal government, but which meets the requirements of the Township Zoning Ordinance and Evangeline Township Private Road Ordinance, as amended.

**Road, Public:** Any road or portion of road which has been dedicated to and accepted for maintenance by the Charlevoix County Road Commission, State of Michigan or federal government.

**Roadside Stand:** An accessory and temporary farm structure operated for the purpose of selling local farm products, primarily raised or produced on the same farm premises or other properties under the same ownership or management.

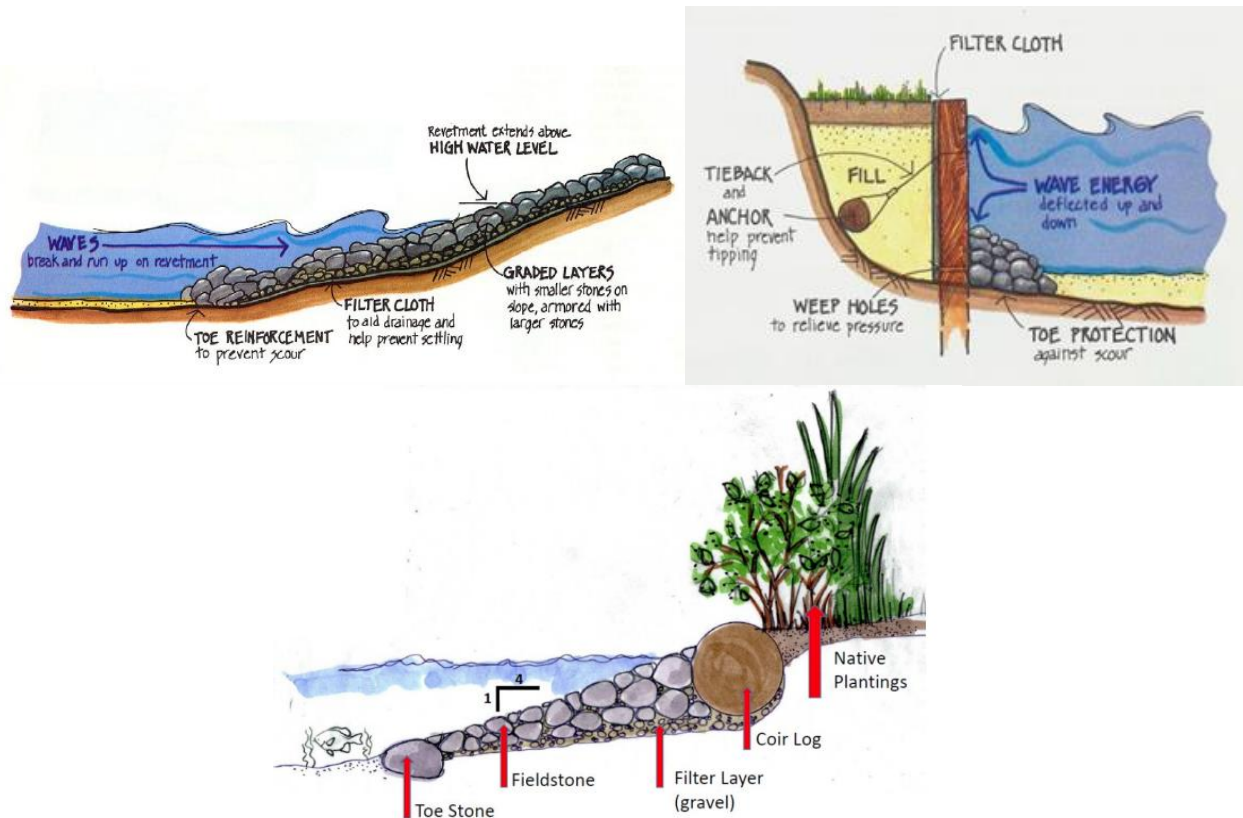
**Sanitary Landfill:** Sanitary landfill shall be defined as waste disposal areas, where the waste is deposited in a trench, compacted and back filled with land cover, in accordance with the Michigan statutes regulating sanitary landfill siting, design, construction and operation.

**Sawlog:** A log of suitable size for sawing into lumber, processed at a sawmill. This is in contrast to those other parts of the stem that are designated pulpwood. Sawlogs will be greater diameter, straighter and have a lower knot frequency.

**Setback:** The minimum required horizontal distance from the applicable right-of-way line, easement, high water level elevation, stream or property line of a lot within which no buildings or structures may be placed.

**Sexually-Oriented Business:** means Adult Book and/or Video Stores, Adult Live Entertainment Establishments, Adult Motion Picture Theaters, Adult Mini Motion Picture Theaters, Adult Panorama, Adult Paraphernalia/Novelty Stores, Massage Parlors and Open Dance Halls as defined in this Article.

**Shoreline Protection Structure:** A structure designed and constructed to protect shorelines from water erosion that meet design standards such as illustrated below in Figure 2-2. The top of all shoreline protection structures shall be at or above the high-water elevation as defined.



**Figure 2-2**

**Sign:** A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out-of-doors.

**Sign, Animated:** Any sign having a conspicuous and intermittent variation in the illumination of the physical position of any part of the sign or in which a portion of the sign moves.

**Sign, Attached:** A sign that is permanently affixed to or painted to a building, canopy, or wall and having a permanent or changeable copy face.

**Sign, Awning:** A sign that is part of or attached to the face of any awning and constructed in the same fabric or material as the awning.

**Sign, Banner:** A sign made of flexible material

**Sign, Directional/Informational:** A sign displayed for the direction, safety, and convenience of the public. Examples include: safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, city/township sponsored farmer's market, and similar signs.

**Sign, Freestanding or Ground:** A sign supported by a sign structure secured in the ground that is wholly independent of any building or object, other than the sign structure and the ground, for support.

**Sign, Hanging:** A sign mounted on beams, brackets, or poles projecting from a building.

**Sign, Home Occupation:** A sign erected for the purpose of identifying an allowed home occupation or business.

**Sign, Nonconforming:** A sign constructed or erected prior to the effective date of any ordinance or amendment containing provision with which the sign does not comply, or any sign that was lawfully erected and complied with the sign regulations in effect at the time it was erected, but is no longer in compliance.

**Sign, Off-Premises:** A sign located on a parcel which is not owned by the owner of the sign or not associated with the land use on the same parcel as the sign.

**Sign, Parked Vehicle:** Signs placed on or affixed to vehicles or trailers that are parked on a right-of-way or on public or private property so as to be visible from a public right-of-way. This does not pertain to signs placed on or affixed to vehicles, where the sign is incidental to the primary use of the vehicle or trailer or to exclude the advertising of the vehicle for sale.

**Sign, Permanent:** A sign that is not intended for temporary use or a limited period. A permanent sign is usually affixed or attached to the exterior of a building or to a pole or other structure by adhesive or mechanical means or is otherwise characterized by anchoring, construction materials, or a foundation indicative of an intent to display the sign for more than a limited period.

**Sign, Portable:** A sign, which is not anchored or permanently secured to either the ground or a building, and which is meant to be easily moved from one location to another, including signs or devices hauled on a trailer, or designed to be physically carried by either a human or animal.

**Sign, Public:** A sign of a noncommercial nature and in the public interest, erected by a governmental entity or agency.

**Sign, Roof:** An attached sign wholly or partially dependent upon the roof of any building for support. A roof does not include a mansard mounted on a parapet wall.

**Sign, Temporary:** A sign type as described herein that is intended for a limited time period, as allowed by this ordinance;

**Type 1:** A sign that uses any balloon, banner, or pennant, individually, as a group, or is connected to a sign intended to draw attention to a specific location.

**Type 2:** A sign, other than a Type 3 Temporary Sign, that is authorized pursuant to a written contract, except for a billboard contract or lease, between the owner of the lot on which the sign will be located and any third party and placed on the lot for a specified period of time.

**Type 3:** A sign, other than a Type 2 Temporary Sign, constructed using a wire, metal, wood or other support structure capable of being placed in the ground and removed from the ground by a single individual with relative ease.

**Sign, Wall:** A sign painted or mounted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for the sign and that does not project more than 12 inches from such building or structure.

**Site Condominium Unit:** That portion of a condominium subdivision designed and intended for occupancy and use by the unit owner consistent with the provisions of the Master Deed.

**Site Plan:** The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

**Slope:** An area of land with a grade that deviates from the horizontal plane calculated as the ratio of vertical rise divided by horizontal run and expressed in terms of a percentage. See also Steep Slope Areas.

**Special Uses:** Land uses which have unique characteristics that are potentially discordant with other uses in a district. Special uses are subject to review and approval by the Evangeline Township Planning Commission.

**Specified Anatomical Areas are defined as:**

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered. (effective: June 14, 2012)

**Specified Sexual Activities means and includes any of the following:**

- A. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. masturbation, actual or simulated; or
- D. excretory functions as part of or in connection with any of the activities set forth in A through C above. (effective: June 14, 2012)

**Stables, Riding:** The keeping of two (2) or more horses for the purpose of renting the same, on either an hourly, daily, weekly, or any time period, to any persons other than the owners thereof.

**Steep Slope Areas:** Areas mapped in the Charlevoix County Soil Survey as having slopes from 18% to 25%, 18% to 50%, or 25% to 50% slopes.

**Storage Condominium:** A storage facility/complex where individual units are sold rather than rented or leased.

**Storage Facility/Complex:** Any real property designed and used for the purpose of renting or leasing individual or group storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property. See also Storage Condominium.

**Stream:** A body of water, confined within a bed or banks and having a detectable current.

**Stream, Ephemeral:** A stream that flows only during or immediately after periods of precipitation.

**Stream, Intermittent:** A stream that flows only during certain times of the year. Seasonal flow in an intermittent stream usually lasts longer than 30 days per year.

**Stream, Perennial:** A stream that flows continuously during both wet and dry times throughout the year.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including but not limited to dwellings, decks, garages, buildings, satellite dishes, signs and signboards. This definition does not include incidental items such as mailbox, driveways, birdhouses, birdbaths, utility poles, flag poles, swing sets, fences less than four (4) feet high, docks, shoreline protection structures, boardwalks a maximum of four (4) feet wide. (effective: June 14, 2012)



**Telecommunication Tower or Tower:** All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**Tower Compound:** The area enclosing any Telecommunication Tower or Alternative Tower Structure and the related accessory buildings and structures including, but not limited to, facilities, guy wires, Tower access area, Antenna, fence, lights, and signs.

**Township Board:** The Evangeline Township Board of Trustees.

**Use:** The lawful purpose for which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.

**Variance:** A modification of literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provision would cause practical difficulty or undue hardship owing to circumstances unique to the individual property on which the variance is sought.

**Vehicle:** Includes any motorized conveyance which requires a current license, registration or certification to legally operate in the air, on the water, or on a public street, road, highway or public right-of-way.

**Vertical Setback:** For parcels located adjacent to a lake, river or stream, the top of the footings of any building or structure or the bottom of the trench of any drain field erected after the date of enactment of this Ordinance shall be at an elevation equal to or greater than the High-Water Level Elevation of said lake, river or stream.

**Wall:** A permanent solid barrier constructed of masonry, concrete, brick, stone, wood, or similar material, intended to enclose or support an area, such as a retaining wall to laterally support soil or an obscuring wall to conceal what is beyond it from view.

**Wetland:** Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh, or soils classified as hydric by the USDA Soil Conservation Service.

**Wind Turbine Generator:** A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

- A. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
- B. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.
- C. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

**Wind Turbine Generator, Commercial:** A wind turbine generator designed and used primarily to generate electricity by or for sale to utility companies.

**Wind Turbine Generator, Noncommercial:** A wind turbine generator designed and used primarily to generate electricity or produce mechanical energy for use on the property where located.

**Wind Turbine Generator Tower Height:** The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceed the height of the wind turbine generator.

**Yard:** A space open to the sky and unoccupied or unobstructed on the same lot with a structure.

**Yard, Front:** A yard extending across the full width of the lot between the front lot line and the nearest line of any structure.

**Yard, Rear:** A yard extending across the full width of the lot between the rear lot line and the nearest line of any structure.

**Yard, Side:** A yard extending from the front yard to the rear yard between the side lot line and the nearest line of any structure.

**Yard, Waterfront:** A yard extending across the full width of the lot between the waterfront lot line and the nearest line of any structure.

**Zoning Board of Appeals:** The Evangeline Township Zoning Board of Appeals, established pursuant to the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006.

## **Article III – General Provisions**

### **Section 3.01 – Scope of Ordinance**

Except as otherwise provided, no land, or existing buildings, and no new structures, or part thereof, shall hereafter be located, erected, used or altered other than in conformity with the provisions of the Ordinance.

### **Section 3.02 – Essential Service Clause Pertaining to Utilities**

- A.** The erection, construction, alteration, maintenance, and operation by public utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, supply systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, electrical substations, gas regulation stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law and other Ordinances of the Township of Evangeline in any use District, provided that the above meet the setback and dimensional requirements of the respective districts and the Planning Commission is notified at least sixty (60) days prior to any major construction, and provided a Zoning Permit is obtained. Electrical substations shall comply with the Fencing and Screening provisions of **Section 3.18** of this Ordinance.
- B.** Telecommunication towers, alternative tower structures, antennas, wind turbine generators, anemometer towers, storage services, and repair facilities shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities. (amended: August 4, 2009)

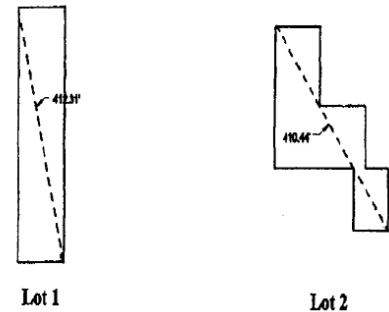
### **Section 3.03 – General Lot Requirements**

- A.** Yard Limitations
  - 1. Non-Duplication: In determining lot and yard requirements, no area shall be counted as accessory to more than one (1) structure and no area necessary for compliance with the space requirements for one (1) building or use shall be counted in the calculation or requirement for any other building or use.
  - 2. Front, Rear and Side Yard Uses: No structure may be sited in any setback, except as specifically provided for by this Ordinance.
- B.** Lot-Building Relationship
  - 1. Hereafter, every building erected, altered or moved shall be:
    - a. located on a legally created lot of record as defined herein;
    - b. and except where otherwise specified in this Ordinance, there shall be no more than one (1) principal building and, where area permits, permitted accessory structures, located on each lot in any District.
- C.** Lot Width to Depth Relationship

Any lot created after the date of adoption of this Ordinance shall have minimum dimensions at least as deep as wide. Maximum dimensions shall be no more than four (4) times as deep as wide. The following equivalent diagonal measurement method (and diagram) shall be used to determine the conformance of irregularly shaped lots with the lot width to depth ratio requirements.

Using this method, an irregularly shaped lot is considered to be in conformance with Ordinance lot depth to width ratio requirements, if a line wholly within the lot between the furthest two points on the lot is less than the diagonal measurement of an equivalent rectangular shaped lot of the same area meeting the Ordinance's depth to width ratio requirements.

To illustrate this concept, Lots 1 and 2 in Figure 3-1 are both 40,000 square feet in area. Lot 1 has a depth four times greater than its width, the maximum allowed in this situation. The diagonal measure of Lot 1 is 412.31 feet. In this case Lot 2 would also be considered to be in conformance with the 4 to 1 maximum depth to width ratio requirement since the line wholly within the lot between the two most distant points is 410.44 feet, and thus less than diagonal measurement of Lot 1.



**Figure 3-1**

**D. Grading and Lot Improvements**

1. No property shall be altered or improved so as to increase volume and/or speed of the discharge of surface water runoff onto adjacent properties or directly into any lake, river or stream.
2. Due to topography and/or high water tables, parcels within the Glenwood Beach and Springwater Beach zoning districts may use rain garden detention ponds as a discharge area for surface and stormwater runoff. The Planning Commission shall review and approve the design and layout of any required detention pond if it finds that the detention pond is of sufficient size and construction to capture, retain and dissipate the excess surface and stormwater runoff from the impervious surfaces of the lot for a 10-year frequency rainfall event.

**E. Road Access**

All lots created by all future land divisions, site condominium developments and/or parcel reconfigurations shall be serviced by roads that conform to the construction standards of the Charlevoix County Road Commission or of the Evangeline Township Private Road Ordinance. (amended: August 4, 2009)

**F. Nonconforming Lots of Record and Lots of Record with Nonconforming Structures**

If two (2) or more contiguous lots of record or portions of lots of record, not separated by any public or private road, are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots of record or portions of lots of record shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance. In addition, if two (2) or more contiguous lots of record or portions of lots of record, not separated by any public or private road, are under the same ownership and one of the lots of record has located on it a nonconforming structure and the nonconforming nature of the structure can be eliminated if the contiguous lots of record or portions of the lots of record are considered an undivided lot or parcel for the purposes of this Ordinance, then those contiguous lots of record or portions of lots of record shall be considered an undivided lot or parcel for the purposes of this

Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes the structure's compliance with the dimensional regulations of this Ordinance. (effective April 21, 2010)

### **Section 3.04 – Water Supply and Sewage Disposal Facilities**

Every building hereafter erected, altered or moved upon any premises and used in whole or in part for dwelling, recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system, and with means for collecting and disposal without unacceptable risk of groundwater contamination, of all human excreta and of all water-carried domestic, commercial, industrial, and other wastes that may adversely affect health conditions. The written approval of such facilities by the Northwest Michigan Community Health Agency shall be filed with an application for a Zoning Permit as hereinafter provided.

### **Section 3.05 – Hazardous Substances**

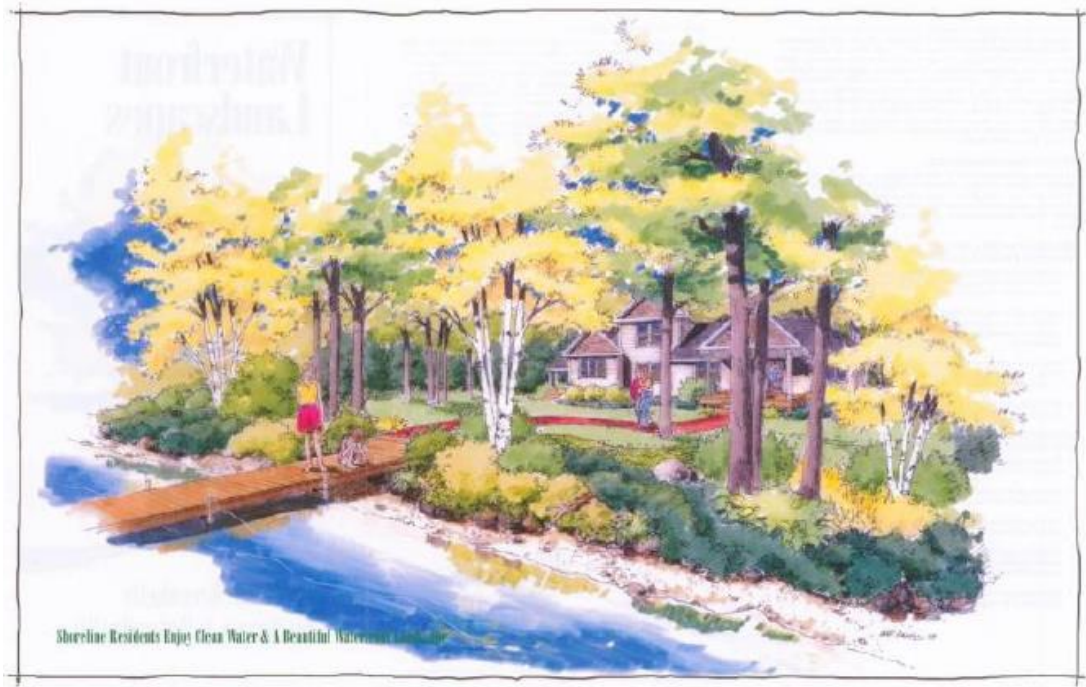
All business or industries which store, use or generate hazardous substances as defined in this Ordinance, in quantities greater than twenty-five (25) gallons or two hundred twenty (220) pounds per month whichever is less, shall meet all state and federal requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of said hazardous substances. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

### **Section 3.06 – Natural Vegetation Waterfront Buffer Strip**

- A.** To enhance protection of water quality, when any of the developments listed in this subsection occur on waterfront lots or site condominium projects which do not presently have a Natural Vegetation Waterfront Buffer Strip meeting the requirements of this section, a Natural Vegetation Waterfront Buffer Strip shall be established and maintained as a required condition for site plan approval. The following developments will require the Natural Vegetation Waterfront Buffer Strip:
- Reconstruction of an existing structure, or;
  - Changing the spatial dimensions of an existing structure, or;
  - Enclosing portions of any building, or;
  - The addition of new structures, or;
  - The granting of any variance.
- B.** A Natural Vegetation Waterfront Buffer Strip shall meet the following specifications:
1. The Natural Vegetation Waterfront Buffer Strip shall be located between the water's edge and all structure(s), except docks, shoreline protection structures, and waterfront-viewing platforms as allowed in the district regulations.
  2. The minimum depth shall be twenty-five (25) feet and shall extend across the full width of the waterfront portion of the lot, except that the depth shall be fifty (50) feet for lots with steep slopes as identified on the Evangeline Township Shoreline Steep Slopes Map (Figure 3-2). (effective April 21, 2010)
  3. The Natural Vegetation Waterfront Buffer Strip shall be located upland from the High-Water Level Elevation as defined.
  4. The Natural Vegetation Waterfront Buffer Strip shall be planted with a mixture of trees, which at maturity shall obtain a minimum height of 50 feet, and low growing woody shrub species native to the area and suitable for the site. Trees shall be scattered throughout the strip, planted at a minimum of ten (10) trees per one hundred feet (100') of lake frontage, and sited in a manner

that allows for “filtered” views of the water from the dwelling. Tree species shall be of a sufficient size and caliper (minimum 2”) to compete with the surrounding vegetation, and shall provide coverage of 75% of the area within the Natural Vegetation Waterfront Buffer Strip as measured at the drip lines the trees are expected to have at maturity (for guidance, see Figure 1 in this Section). Shrubs shall be of sufficient size and planted at spacings that shall provide complete coverage of the ground within the Natural Vegetation Waterfront Buffer Strip, except as allowed in district regulations for a viewing platform and path, within a period of two (2) full growing seasons. (amended: November 5, 2019)

5. No lawn shall be maintained between the Natural Vegetation Waterfront Buffer Strip and the water's edge.
  6. No supplemental plant nutrients shall be allowed in the Natural Vegetation Waterfront Buffer Strip.
  7. No sand or fill shall be placed between the shoreline and the Natural Vegetation Waterfront Buffer Strip.
  8. All required plantings in the Natural Vegetation Waterfront Buffer Strip shall be completed by the end of the next full growing season after the approval date of the project. (e.g. Projects approved before May 20<sup>th</sup> must be planted by October 5<sup>th</sup> of that year. Those approved after May 20<sup>th</sup> have until October 5<sup>th</sup> of the following year.) In the event of circumstances beyond the applicant's control which cause an unavoidable delay to planting, the Planning Commission may grant an extension of up to one year when requested by the applicant and deemed warranted by the Planning Commission. Such circumstances shall not include any that are due to the applicant's personal or economic hardship.
- C.** See Section 5.11 Schedule of Regulations for alternative maximum impervious surface coverage options. (effective April 21, 2010)
- D.** The Planning Commission may waive or modify the requirement for installation of a new Natural Vegetation Waterfront Buffer Strip upon a finding that existing vegetation meets the standards of a Natural Vegetation Waterfront Buffer Strip.  
(amended: August 4, 2009)
- E.** Notwithstanding any other provision in this ordinance, any existing vegetation within the area of the required natural vegetation buffer strip shall be preserved whether or not the vegetation meets the specifications found in Section 3.06.B. No existing vegetation, living or dead and including stumps and root systems, within the required natural vegetation buffer strip area may be removed without site inspection and written approval from the Zoning Administrator. The requirements in this subsection shall not be construed as preventing vegetation which does not comply with the standards of Section 3.06.B from being replaced with new vegetation to increase compliance with Section 3.06.B. (amended: November 13, 2018)

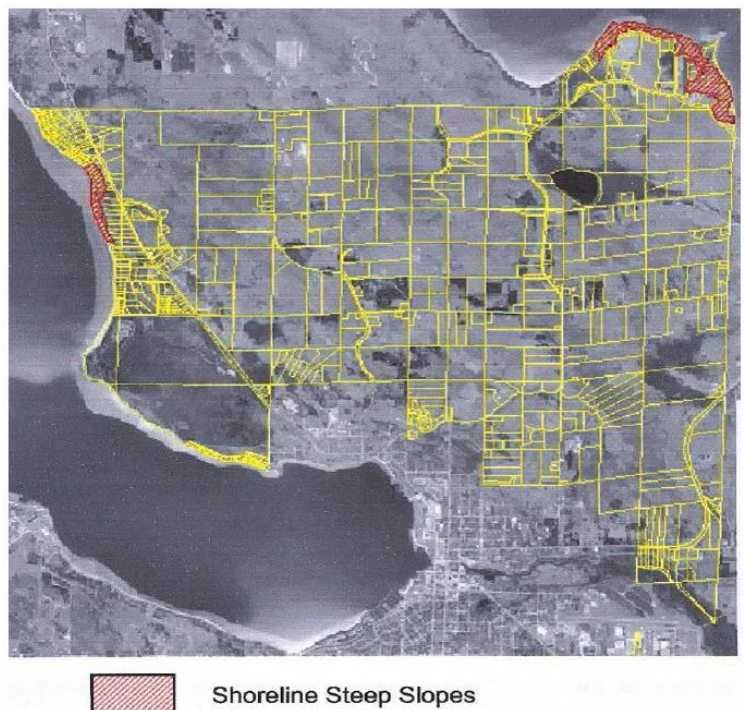


**Figure 1--Example of a Natural Vegetation Shoreline Buffer Strip**  
(Source: Tip of the Mitt Watershed Council)

### **Section 3.07-- Waterfront setback Provision**

- A. Except as otherwise indicated in this Ordinance, no structures (excluding dock(s), shoreline protection structures, and waterfront view platforms) shall be erected or constructed less than fifty (50) feet (one hundred (100) feet for lots outlined on the Evangeline Township Shoreline Steep Slopes Map Figure 3-2, additional steep slope map detail on pages III-27 & III-28) upland from the high-water level elevation of any lake or river.

#### **Evangeline Township Shoreline Steep Slopes Map**



**Figure 3-2**

## **Section 3.08 – Environmentally Sensitive Areas**

### **A. Wetland Areas**

1. Michigan Department of Environment Great Lakes and Energy (EGLE) or any successor state agency approved wetland delineation shall be required for all areas mapped as potential wetland areas on the EGLE Wetland Inventory Maps covering Evangeline Township, unless specifically waived by the Zoning Administrator after a site visit.
2. Lot coverage in areas deemed as wetlands will be no greater than five (5) percent.

### **B. Steep Slopes**

1. Except as may be allowed by other provisions of this Ordinance, no construction activities shall take place on slopes with grades of thirty three percent (33%) or greater, as determined by 10' contour topographic maps produced by the Charlevoix County GIS Department.

## **Section 3.09 – Manufactured Housing**

### **A. Manufactured homes sited on individual lots shall meet the standards for minimum lot size, yard setbacks, minimum floor area and minimum dwelling unit width for the District in which they are located and shall meet the following additional standards:**

1. Manufactured homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Manufactured Housing Commission requirements.
2. Manufactured homes shall be installed according to manufacturer's set up requirements, and the construction of the unit shall comply with the National Manufactured Housing Construction and Safety Standards Act, as amended.
3. The wheels, axles and towing assembly shall be removed from a manufactured home before the unit is attached to the foundation. Additionally, no manufactured home shall have any exposed undercarriage or chassis.
4. Manufactured homes shall not be used as an accessory building.

### **B. It shall be unlawful for any person to park, or cause to be parked, any manufactured home on any street, alley, highway or other public place in the unincorporated portion of the Township for storage, use as a dwelling or for overnight stops outside of a licensed manufactured housing community.**

## **Section 3.10 – Manufactured Housing as Temporary Dwelling Unit**

### **A. In any District where single-family residential uses are allowed, it shall be lawful for any person or persons to temporarily occupy a manufactured home as a single-family dwelling while such person or persons are building a permanent residence (and have a valid building permit for the permanent residence), provided:**

1. Such manufactured home meets the square footage requirements of this Ordinance and meets the provisions of Section 3.09 of this Ordinance.
2. That the parcel contains sufficient size and frontage to allow the parcel to be split into two lots, and that a temporary manufactured home and permanent residence is located so that both dwelling units meet all dimensional requirements.
3. Each building envelope shall be located on the parcel in such a manner so as to meet all setback requirements should the parcel be split.



- B. A permit for the temporary use of the manufactured home, in compliance with this ordinance, must be obtained from the Zoning Administrator.

### **Section 3.11 – Screening Between Land Uses**

Screening shall be required and maintained for any commercial or industrial use that abuts a residential or agricultural use on either side yard or rear yard, per the provisions below:

- A. Any improvement for which a site plan is required; screening shall be located or constructed along all adjoining boundaries with residentially zoned or used property. Such screening shall be six (6) feet in height for a solid wall or fence, and at least six (6) feet in height for a vegetative screen, as provided below. When the distance between structures on adjoining lots is greater than twice the minimum setbacks a fence meeting the requirements of Section 3.18 may be required at the discretion of the Planning Commission. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80%) percent. Opacity shall be measured by observation of any two (2) square yard area of landscaped screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years. The applicant shall agree in writing to install solid fencing after the expiration of thirty-six (36) months, in the event that the landscaping does not block at least a minimum of eighty (80%) percent of the view of areas required to be screened.
- B. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall may be required at the discretion of the Planning Commission. Such wall shall be six (6) feet in height as measured on the side of the proposed wall having the higher grade.

### **Section 3.12 – Vehicular Parking Space and Access**

- A. For each dwelling, business, commercial, industrial, or similar building hereafter erected or altered, and located on a public highway in the Township, including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable off-street parking in accordance with the following schedule:
1. Residential Uses: Two (2) parking spaces per primary dwelling unit. One (1) additional parking space for an accessory dwelling unit.
  2. Commercial, Service and Office Uses: Two (2) parking spaces per 1,000 square foot of gross floor area. Maximum five (5) parking spaces per 1,000 square feet of gross floor area.
  3. Industrial Uses: one parking space for every 1,000 square foot of gross floor area.
- B. Two (2) or more buildings or uses may collectively provide the required off-street parking. In such a case, the required number of parking spaces for the individual uses may be reduced by up to twenty-five (25%) percent if a signed agreement is provided by the property owners and, upon approval, the agreement is recorded with the Charlevoix County Register of Deeds for both properties.
- C. Parking Lot Deferment: Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area. Area of sufficient size to meet the parking space requirements of this Article shall be retained as open space, and the owner shall agree to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Zoning Administrator. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout. Any required landscaping placed in this area shall be relocated when the parking area is expanded.
- D. In order to minimize excessive areas of pavement, which are unsightly and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirements by greater than ten (10%)

percent shall not be allowed, except as approved by the Planning Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.

- E. In case of a use not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the most similar use listed.
- F. Exits and entrances may be combined or provided separately. Approval of location of such exit and entrance shall be obtained in writing from the Charlevoix County Road Commission and/or Michigan Department of Transportation which approval shall include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.
- G. Area Requirement: When a parking space for a vehicle does not have a direct means of ingress and egress from an alley or street, a minimum of 200 square feet of lot area shall be provided for that parking space. Parking lot access aisles shall be wide enough for access to the parking spaces based on the design of the parking lot. When a parking space for a vehicle does have a direct means of ingress and egress from an alley or street, a minimum of 180 square feet of lot area shall be provided for that parking space. (amended: August 4, 2009)

### **Section 3.13 – Signs** (amended: 2014)

The purpose of this section is to preserve the desirable character of Evangeline Township, as well as to recognize the need for and privilege of expressing views and advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by the local business places. At the same time, the Township recognizes the right of residents to be free of signs that could adversely affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this Ordinance.

#### **A. Signs Not Requiring a Sign Permit:**

The following signs may be placed in any Zoning District without a sign permit, provided such signs comply with any applicable federal or state law or regulation and are located so as not to cause a nuisance or safety hazard:

1. One (1) non-illuminated identification sign per use, not exceeding four (4) square feet of sign surface.
2. One (1) non-illuminated residential name plate per lot, not exceeding four (4) square feet of sign surface.
3. Street name signs, route markers, Michigan Department of Transportation Tourist Oriented Directional Signs (TODS) and other traffic control signs erected or approved by state, or county agencies when necessary to give proper directions or to otherwise safeguard the public.
4. All directional signs required for the purpose of orientation, when established by the Township, County, State, or Federal governments.
5. Signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to: road hazards, high voltage, fire danger, explosives, limited visibility, etc.
6. Signs marking an historically significant place, building or area when sanctioned by a national, state or local historic organization recognized by the planning commission, provided the sign surface does not exceed the maximum allowed size of sixteen (16) square feet or the maximum size allowed in the Zoning District whichever is less.
7. Signs that have been approved in conjunction with a valid site plan, authorized by the

Planning Commission, for any principal or accessory use, and signs required by federal or state agencies in connection with federal or state grant programs.

8. Type 1 & Type 3 temporary signs both on-premises and off-premises may be posted for no more than seven (7) consecutive days, provided the sign surface does not exceed the maximum size limitations of six (6) square feet. If Type 1 or Type 3 temporary signs are posted for more than seven (7) consecutive days, then a sign permit shall be obtained from the Zoning Administrator, which shall authorize an additional fourteen days for the temporary sign.
9. Type 2 temporary signs may be erected, but only during that time period the contract authorizing such signs remains in effect.

**B. Signs Requiring a Sign Permit:**

1. No sign, except those specified in subsection 3.13 A, shall be erected or altered until a permit has been approved and issued by the Zoning Administrator. The use and erection of all outdoor signs shall be subject to the following provisions:
2. Size Limitations by District:  
The size of any publicly displayed sign on a premises shall be regulated as follows:

Use District

GB, SWB, P, W, K, R-1

R/CS

RRF, MU, I

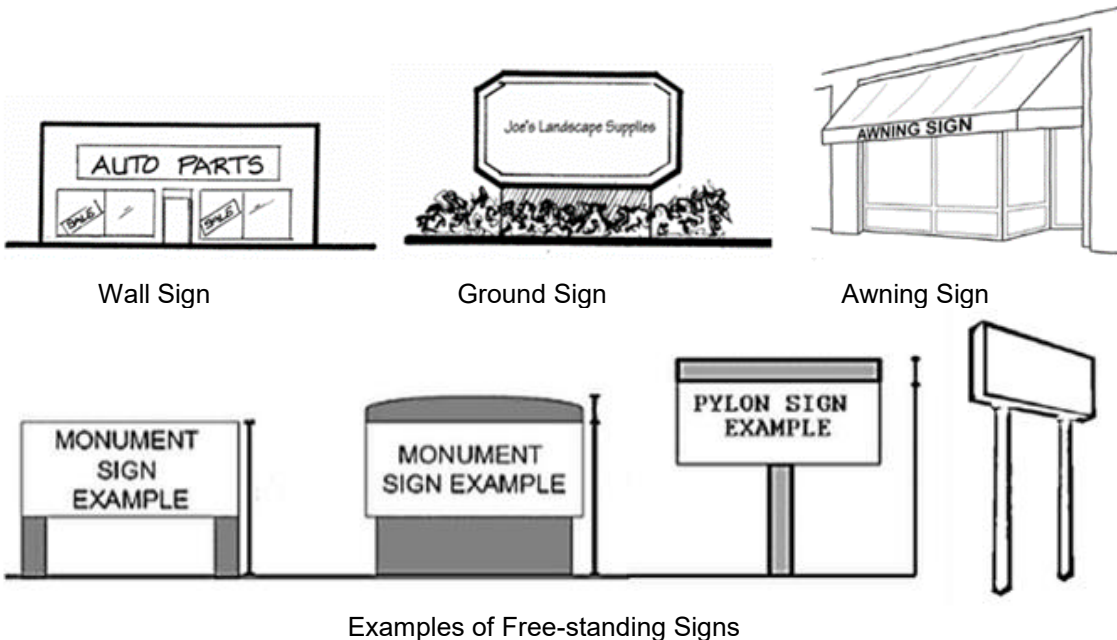
Maximum Size of Sign per Side

Six (6) square feet

Twelve (12) square feet

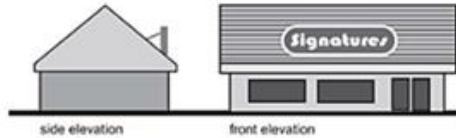
Twenty-four (24) square feet

\*Residential subdivisions and developments shall be limited to one (1) sign per entrance of not more than twenty-four (24) square feet per side.

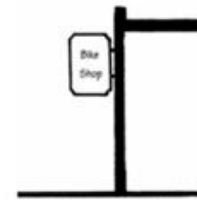
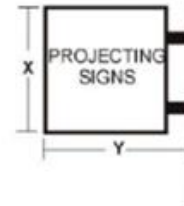




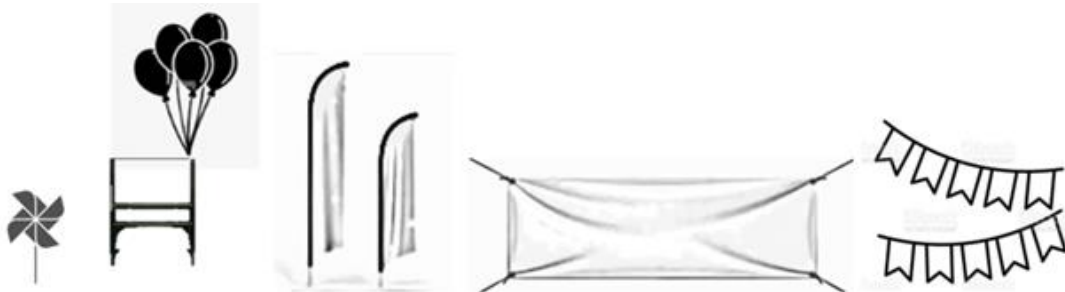
Hanging Sign



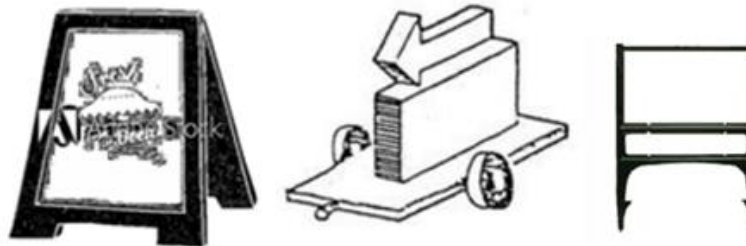
Rooftop Sign



Examples of Projecting Signs



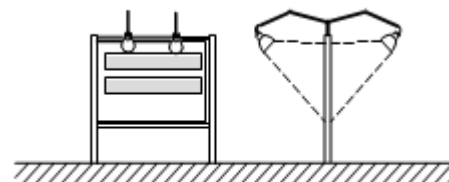
Temporary Sign Devices: Pinwheels, Balloons, Flags, Banners, Pennants/Streamers



Portable Signs

**Figure 3-3**

- C.** In addition to the size limitations stated in Subsection 3.13.B.2, the following conditions shall apply to all signs, including off-premises signs, erected in any Zoning District:
1. No signs shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
  2. All illumination unless otherwise approved by the Planning Commission, shall be oriented downwards and shall not trespass beyond the borders of the sign, as illustrated in Figure 3-4.
  3. Signs containing flashing, intermittent or moving lights are prohibited.
  4. No awning sign shall be illuminated internally or illuminated by flashing lights. Sign may contain lettering and backgrounds made of reflective material.
  5. One internally lit sign not to exceed six (6) square feet per business shall be allowed provided the sign has an opaque background or field of a dark color with letters, numerals, logos, and similar message elements of a transparent material to permit internal lighting revealing the



**Figure 3-4**

message or information for which the sign is intended.

6. Off-premises signs shall be permitted subject to review and approval of location by the Zoning Administrator. Not more than one (1) freestanding sign per five hundred (500) feet of road frontage or per lot may be allowed. No off-premises sign shall be permitted in GB, SWB, P, W, K, R-1 or MU Zoning Districts.
7. Freestanding signs may be permitted in the front yard provided the sign is located at least ten (10) feet behind the front lot line. No freestanding sign shall exceed a maximum of six (6) feet in height, measured from the ground to the top of the sign, regardless of the Zoning District.
8. Both sides of any freestanding or overhanging sign may be used for display.
9. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet and shall be no less than fourteen (14) feet above the right-of-way (see Figure 3-5). However, prior to the erection or overhanging of a sign in a public right-of-way, the sponsor of such sign shall receive the approval of the proper governmental agency having jurisdiction over such right-of-way.
10. Roof signs are specifically prohibited when projecting above the high point of the roof.
11. A maximum of two (2) signs shall be allowed, and the cumulative area for on premises signs shall not exceed that allowed in the District per subsection 3.13.B.2
12. No motor vehicle or trailer, including a semi-trailer, that has a sign affixed to the side of the motor vehicle or trailer, shall be parked or stored within the front yard of any lot abutting a public or private road when the primary purpose of such parking is the display of the sign and not the customary use of the motor vehicle or trailer.

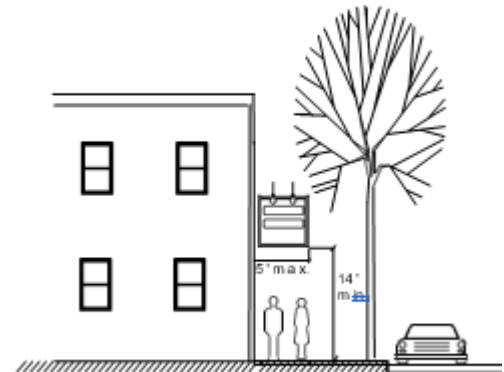


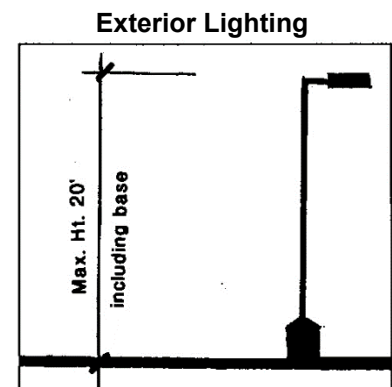
Figure 3-5

- D. If any provisions of any other ordinance, statute or law of Charlevoix County or the State of Michigan impose greater restrictions than herein set forth, then the provisions of such ordinance or statute shall take precedence.
- E. The use of any lawful outdoor sign erected prior to this Ordinance and in use on the date this Ordinance is enacted, which does not meet these standards, may be continued. Such signs shall be designated as "Nonconforming signs". The maintenance, reconstruction, alteration, discontinuation and change in the nonconforming nature of a Nonconforming sign shall be governed by **Section 3.16 Nonconforming Uses and Structures** of this Ordinance

### Section 3.14 – Exterior Lighting

All exterior light(s) rated at 190 lumens (equivalent to a 25 watt incandescent bulb) or greater of output, hereafter installed or erected in all Zoning Districts including but not limited to pole mounted, building mounted, sign illuminating or residential pole mounted yard lights shall be limited in output and have cut off caps and/or other shielding devices installed and oriented in such a manner to prevent light trespass or glare of the illuminating device or reflector into either the sky or beyond the borders of the parcel where said light(s) is/are located. Pole mounted lights shall not exceed a maximum height, including the base, of twenty (20) feet. Seasonal Holiday lighting displays are excluded from these regulations. (Refer to figure 3-6.)

Figure 3-6



### **Section 3.15 – Home Business**

While Evangeline Township recognizes that many residents feel the necessity to work at home, the Township also recognizes the rights of all residents to be free from actual or potential nuisance which may be caused by non-residential activities conducted in a residential district. The intent of this section is to provide standards to ensure home occupations and cottage industries are compatible with other allowed uses in residential districts, and thus to maintain and preserve the residential character of the neighborhood.

#### **A. Home Occupations**

1. Home occupations may be permitted in all Zoning Districts in which single-family dwellings are permitted, no zoning permit required.
2. Home Occupations shall be operated in their entirety within the dwelling, within an attached garage, or within a detached accessory building of an architectural style that is compatible with the architecture of the dwelling and designed so that the accessory structure can be used for accessory residential uses if the home occupation is discontinued. (effective: June 14, 2012)
3. Home Occupations shall be conducted primarily by the person or persons occupying the premises as their principal residence. Not more than one (1) non-resident person shall be working at the given premises to assist with the business, including both non-resident employees and those working with the business on a contractual basis.
4. Additions to a dwelling for the purpose of conducting a Home Occupation shall be of an architectural style that is compatible with the architecture of the dwelling and shall be designed so that the addition can be used for dwelling purposes if the home occupation is discontinued.
5. Home Occupations shall be incidental and subordinate to the principal use of the dwelling for residential purposes and shall not detract from the residential character of the premises or neighborhood.
6. Home Occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Township as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a Home Occupation shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not typically associated with the use of the dwelling for residential purposes.
7. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
8. The outdoor storage of goods and/or materials of any kind is prohibited. No goods or materials shall be sold that are not produced through the conduct of the Home Occupation.
9. No process, chemicals, or materials shall be used which are contrary to any applicable state or federal laws.

#### **B. Cottage Industries**

1. Cottage industries may be permitted in any Zoning District in which single-family dwellings are permitted, subject to review and approval by the Planning Commission. Cottage industries shall be allowed on the basis of individual merit, a periodic review of each cottage industry may be performed to ensure the conditions of approval are adhered to. If the premises is sold, leased, or rented to a party other than the applicant, the permit shall be reviewed for compliance with the original permit by the Zoning Administrator. If any changes are necessary, the request will be reheard by the Planning Commission.
2. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or

neighborhood. There shall be no exterior evidence of such industry.

3. A cottage industry shall occupy not more than one building on a single lot. For lots three (3) acres or more in land area, the total floor area devoted to a cottage industry within that building shall be limited to 500 sq. ft. per acre, but no more than 20,000 sq. ft., regardless of lot size. For lots less than three (3) acres in land area, the total floor area devoted to a cottage industry within that building shall be limited to 1,500 sq. ft.
4. The outdoor storage of goods and/or materials of any kind is prohibited unless screened (by a tight-board fence, landscaped buffer, landscaped berm, etc.) from view from neighboring property and road rights-of-way. If required, the specific type of screening shall be determined by the Planning Commission to ensure the visual protections specified in this subsection. Any cottage industry building utilized in whole or in part for indoor storage purposes shall be limited to the storage of supplies, materials, tools and/or equipment, and goods and/or products, directly associated with the cottage industry use and shall not be used as either group or individual storage units as that of a storage facility type of operation.
5. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and surrounding Zoning Districts. Any machinery, mechanical devices or equipment employed in the conduct of a Cottage Industry shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the allowed uses of the premises in the given Zoning District.
6. Traffic and delivery or pickup of goods shall not exceed that normally created by typical uses permitted in the given Zoning District.
7. Cottage industries shall be conducted only by the person or persons residing on the premises. The Planning Commission may allow up to two (2) non-residents working at the given premises to assist with the business, including both non-resident employees and those working with the business on a contractual basis.
8. To ensure that the cottage industry is compatible with surrounding residential use, a "not-to-exceed" number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process.
9. To ensure that the cottage industry is compatible with surrounding residential use, the hours of operation shall be approved by the Planning Commission.

#### **C. Termination, Extensions, Revisions, and Inspections**

1. Upon written application by the owner, the Planning Commission may, for just cause, grant a time extension for compliance with the conditions of this Section. The extension can be for no more than one (1) year.
2. Any home occupation or cottage industry shall be subject to periodic review by the Zoning Administrator.

### **Section 3.16 – Nonconforming Uses and Structures**

#### **A. Definition and Classification of Nonconforming Uses and Structures (adopted February 1, 2011)**

1. Class A nonconforming uses or structures are those which have been so designated by the Zoning Administrator, after application by the person having an interest in the property, upon finding that the use or structure meets all of the following requirements:
  - a. No portion of the use or no portion of the structure is in an environmentally sensitive area as defined by this ordinance;
  - b. The continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of this Ordinance;

- c. The use or structure does not and is not likely to significantly depress the value of nearby properties;
- d. The use or structure was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.

2. All nonconforming uses and structures not designated as Class A are Class B nonconforming uses or structures.

**B. Procedure for Obtaining Class A Designation, Conditions (effective April 21, 2010)**

1. A written application shall be filed setting forth the name and address of the applicant, giving a legal description of the property to which, the application pertains and including such other information as may be necessary to enable the Zoning Administrator to make a determination of the matter. The Zoning Administrator may require the furnishing of such additional information deemed necessary to determine whether the standards for Class A designation are met. The decision shall be in writing and shall set forth the findings and reasons on which it is based. Conditions shall be attached, where necessary, to assure that the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this Ordinance. No vested interest shall arise out of a Class A designation.
2. Appeals of the Zoning Administrator's determination shall be heard by the Zoning Board of Appeals. Such appeals shall follow the procedures described in Article IX of this Zoning Ordinance.

**C. Revocation of Class A Designation (effective April 21, 2010)**

1. Any Class A designation shall be revoked by the Zoning Administrator upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for Class A designation.

**D. Regulations Pertaining to Class A Nonconforming Uses and Structures (amended April 14, 2018)**

A Class A nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:

1. This Ordinance shall not prohibit the repair, improvement or modernization of a Class A nonconforming structure to correct deterioration, obsolescence, depreciation and wear, provided the structure's spatial envelope (the building footprint and vertical profile) remains the same and the structure will still meet the qualifications of a Class A nonconforming use or structure.
2. Structural changes including enlargement or extension of a Class A nonconforming structure or use may be permitted by the Planning Commission except when such extension or enlargement would be incompatible with surrounding land uses. No extension or enlargement of a Class A nonconforming use or structure shall be approved if approval would result in encroachment into an environmentally sensitive area as defined, or result in violation of the water front, front yard, rear yard or side yard setbacks, lot coverage or bulk requirements of this Ordinance. (adopted February 1, 2011)
3. A Class A nonconforming use or structure may be substituted for a similar nonconforming use or structure when the Planning Commission determines the substitution would improve the property, and/or would not increase the nonconformity. (adopted February 1, 2011)

**E. Regulations Pertaining to Class B Nonconforming Uses and Structures**

It is the purpose of this Ordinance to bring Class B nonconforming uses and structures into conformance with provisions of this Ordinance as rapidly as is permitted by law. A Class B



nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:

1. Minor repairs or maintenance of a Class B nonconforming structure in order to keep it structurally safe and sound are permitted. A Class B nonconforming structure shall not be repaired, improved or remodeled when such repairs or improvements exceeds twenty-five (25%) percent of the structure's replacement cost as determined by the Planning Commission. If a Class B nonconforming use or structure is changed to conform with this Ordinance, the limitations on repairs or improvements shall not apply. (adopted February 1, 2011)
2. Except as provided in subsections 3 and 5 below, any Class B nonconforming structure that is removed by the property owner or damaged by fire, explosion, flood, erosion or other means shall not be repaired or reconstructed if the costs of such repairs or reconstruction are in excess of twenty-five percent (25%) of the structure's pre-catastrophe replacement cost as determined by the Planning Commission. (adopted July 21, 2017)
3. A Class B nonconforming dwelling unit located in the Springwater Beach District or Glenwood Beach District may be repaired or reconstructed when the repairs to the dwelling unit or the reconstructed dwelling unit complies with the following requirements: (adopted July 21, 2017)
  - a. The repairs to the dwelling unit or the reconstructed dwelling unit will not result in a violation of any setback requirement by more than fifty percent (50%).
  - b. The repairs to the dwelling unit or the reconstructed dwelling unit will result in the dwelling unit having the same spatial envelope both horizontally and vertically as the original dwelling unit.
  - c. The repairs to the dwelling unit or the reconstructed dwelling unit will not encroach into the Natural Vegetation Waterfront Buffer Strip required by this ordinance.
  - d. The impervious surface standards for the repaired dwelling unit or the reconstructed dwelling unit are not exceeded.
4. No Class B nonconforming may be changed to a different nonconforming use unless the Planning Commission finds the new nonconforming use more conforming. (adopted July 21, 2017)
5. A Class B nonconforming principal dwelling unit (not an accessory dwelling unit) located on a waterfront lot may be enlarged, extended or structurally altered but only when the Planning Commission finds that the nonconforming dwelling unit and the proposed enlargement, extension, or structural alteration complies with all of the following applicable standards and all other applicable requirements of this ordinance. (amended: November 13, 2018)
  - a. No portion of the proposed enlargement, extension, or structural alteration of the nonconforming dwelling unit shall be located within 50 feet of the high-water level elevation. (amended: November 13, 2018)
  - b. The proposed enlargement, extension, or structural alteration of the nonconforming dwelling unit may be located within the 100-foot waterfront setback for properties outlined in the Evangeline Township Shoreline Steep Slopes Map in Figure 3-2, but shall not be located closer to the high-water level elevation than the existing nonconforming dwelling unit or 50 feet, whichever is farther from the high-water elevation. Enlargement, extension, or structural alteration of the nonconforming dwelling unit may be allowed closer to the high-water elevation than the existing nonconforming dwelling if the Planning Commission finds that the proposed enlargement, extension, or structural alteration would not increase the amount of impervious surface area within the 100-foot waterfront setback beyond the maximum allowed as specified within Section 5.11 – Schedule of Regulations, and meets the 50-foot minimum setback from the high-water elevation as allowed in this section. (amended: May 10, 2023)

- c. The proposed enlargement, extension, or structural alteration of the nonconforming dwelling unit shall not exceed the following ground floor area requirements:
    - i. For an existing nonconforming dwelling unit with a ground floor area of less than 1,000 square feet, the enlargement, extension, or structural alteration shall not exceed 50% of that existing ground floor area.
    - ii. For an existing nonconforming dwelling unit with a ground floor area of 1,000 square feet or more, but less than 2,000 square feet, the enlargement, extension, or structural alteration shall not exceed 25% of that existing ground floor area.
    - iii. For an existing nonconforming dwelling unit with a ground floor area of 2,000 square feet or more, the enlargement, extension, or structural alteration shall not exceed 10% of that existing ground floor area.
  - d. The total impervious surface standards for the existing nonconforming dwelling unit and the proposed enlargement, extension, or structural alteration shall not be exceeded.
  - e. The property owner shall establish a Natural Vegetation Waterfront Buffer Strip that is 50 feet in depth and that meets all requirements of Section 3.06 of this ordinance.
  - f. The property owner shall obtain site plan approval pursuant of the procedures and requirements of Article VI of this ordinance.
- 6. If a mineral extraction operation is designated a Class B nonconforming use, existing holes or shafts may be worked or enlarged on the land which constituted the lot on which operations were conducted at the time of the operation being so classified, but no new holes or shafts shall be established.
  - 7. No Class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time it was established.
  - 8. A Class B nonconforming structure or use may be replaced by a conforming use or structure, or may be replaced by a Class A nonconforming use or structure if the Planning Commission finds that the new nonconforming use or structure qualifies for a Class A designation and that the new nonconforming use or structure will not increase the extent or intensity of the nonconformity on the property. (adopted February 1, 2011)

**F. Determination of Replacement Cost**

The cost of repairing, restoring, or improving a Class A or B nonconforming use or structure excluding contents, damaged by fire, explosion, flood, erosion or other means, shall be made on the basis of an appraisal by an individual licensed to perform real estate appraisals and designated by the Planning Commission. The cost of such determination shall be borne by the applicant. The Planning Commission may determine replacement cost of an existing or pre-catastrophe structure based on information from the most recent Property Tax Assessment record if they find that such record is current and reasonably accurate. (adopted February 1, 2011)

**G. Nonconforming Lots of Record**

- 1. In any District, principal structures and customary accessory buildings may be erected on any legally created nonconforming lot of record not meeting the area requirements provided a permit for construction of a well and septic system is granted by the Northwest Michigan Community Health Agency and can meet all other Zoning District regulations.
- 2. If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this

Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance.

#### **H. Discontinuance of Nonconforming Use**

If a property owner has an intent to abandon a nonconforming use or structure and in fact abandons this nonconforming use or structure for a period of one (1) year, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owners to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

1. Whether utilities, such as water, gas, and electricity to the property have been disconnected,
2. Whether the property, buildings, and grounds have fallen into disrepair,
3. Whether signs or other indications of the existence of the nonconforming use have been removed,
4. Whether equipment or fixtures necessary for the operations of the nonconforming use have been removed,
5. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

#### **I. Creation of Non-Conforming Lots or Parcels**

No lot area and no yard, court, parking areas or other required space shall be divided, altered, reduced or diminished as to make said area or dimension less than the minimum required or more than the maximum allowed under this Ordinance, except where such reduction or expansions have been brought about by the expansion or acquisition of public rights-of-way for a street, road, or highway. If a required area is already less than the minimum required or more than the maximum allowed under this Ordinance, said area or dimension shall not be further divided or reduced.

### **Section 3.17 – Landscaping**

All plans requiring Planning Commission review and approval shall be required to provide landscaping, according to the following standards. Wherever in this Ordinance planting is required, it shall be planted prior to obtaining a Certificate of Occupancy (through the County Building Department) if possible and no later than six (6) months from date of issuance. All landscaping thereafter shall be reasonably maintained, including permanence and health of plant materials to provide a screen to adjacent properties and be free of weeds and foreign debris. Spacing and plant sizes, as required by this section shall be provided in any landscape buffer or designated planting.

#### **A. Landscape Elements**

The following minimum standards shall apply:

1. Plant materials and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to Charlevoix County, conform to the current minimum standard of the American Association of Nurseryman, and shall have proof of any required governmental regulations and/or inspections.
2. A mixture of plant material, such as evergreen, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more

aesthetic, cohesive design and avoid a disorderly appearing arrangement.

3. Berms shall be constructed with slopes not to exceed a 1:3 gradient, with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected by sod, seed, shrubs or other form of natural ground cover.
4. Existing Trees:
  - a. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the Planning Commission, protective techniques, such as, but not limited to, fencing or barriers laced at the drip line around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Planning Commission.
  - b. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the Zoning Administrator, the owner shall replace them with trees which meet Ordinance requirements.

**B. Plant Material - size and spacing**

1. Plant material shall not be closer than four (4) feet from the fence line or property line, except for vines intended to grow on fence structures.
2. Where plant materials are installed in two or more rows, planting shall be staggered to provide for maximum screening and shall consist of a mixture of evergreen and deciduous plants to provide effective year-round screening.
3. Maximum plant spacing and minimum allowable sizes shall be as follows:

General Plant Type	Maximum Spacing Center to Center (feet)		Minimum Allowable Size	
	Single Row	Grouping	Height	Caliper
Large Deciduous (Canopy)	30	40		2 ½"
Large Evergreen	15	20	7'	
Medium-Small Deciduous	10	15		1 ½"
Columnar Deciduous	8	10	10'	
Narrow Evergreen	5	8	8'	

General Plant Type	Maximum Spacing Center to Center (feet)		Minimum Allowable Size	
	Single Row	Grouping	Height	Spread
Large: Upright Spreader	4 6	6 8	4'	3'
Medium: Upright Spreader	3 4	4 6	3'	2'
Small: Upright Spreader	1 1/2 1 1/2	2 2 1/2	18"	15"
Conical	2	3	2'	

**C. Site Landscaping**

1. In addition to any landscape buffer and/or parking lot landscaping required by this section, ten (10%) percent of the site area, excluding thoroughfare right-of-way, shall be landscaped in grass, groundcover, shrub and/or other natural, living landscape materials.
2. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area, but may not exceed five (5%) percent of the site area or one half (1/2) of the required site landscaping area.

**D. Landscape Buffer**

1. A strip of land with a minimum width of fifteen (15) feet, shall be located between the buildable area and the abutting road right-of-way, and shall be landscaped with a minimum of one (1) canopy or large evergreen tree for each thirty linear feet. The remainder of the landscape buffer shall be landscaped in grass, groundcover, shrub and/or other natural, living landscape materials.
2. Access ways from public rights-of-way through the required landscape strips shall be permitted, but such access ways shall not be subtracted from the linear dimension used to determine the minimum number of trees required unless such calculation would result in a violation of the spacing requirement set forth in this section.

**E. Parking Lot Landscaping**

1. Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one (1) tree for every eight (8) parking spaces, with a minimum landscaped space within a designated parking area of fifty (50) square feet.
2. A minimum distance of three (3) feet shall be established between proposed shrub plantings and the backside of the curb or edge of pavement, and five (5) feet between tree trunk and backside of curb and edge of pavement.

**F. Plant materials sizes shall meet or exceed the sizes specified in subsection 3.17. B. 3. above.**

**G. Installation and Maintenance**

1. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workman-like manner and according to accepted good planting and grading procedures.
2. The owner of property required to be landscaped by this Ordinance shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

## Section 3.18 – Fencing and Screening

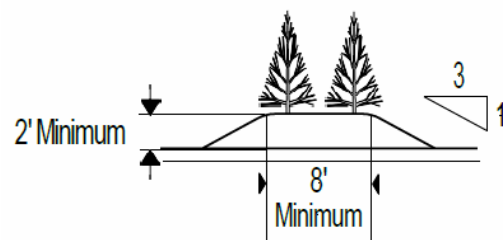
### A. Fences, Walls, and Hedges Height and Location Regulations

#### 1. General Provisions

- a. Unless otherwise specified within this ordinance, fences, walls, or hedges and screening shall not exceed six (6) feet in height in any required side or rear yard. A security fence for a permitted use may include a maximum of one additional foot of barbed wire when the Planning Commission finds that such barbed wire is necessary to secure the area within the boundary fence.
- b. Unless otherwise specified within this ordinance, fences, walls, or hedges in any required front yard shall not exceed three (3) feet.
- c. Gateposts and other superstructures over site entrances and exits may be up to sixteen (16) feet in height.
- d. Fences, may be placed up to a lot line, and the finished side of any fence shall face the adjacent property or road. No parts of any fence or walls, including foundations, may extend beyond any lot line.
- e. Fences for residential accessory use enclosures such as, but not limited to, tennis courts, kennels, and dog runs, shall not exceed twelve (12) feet in height, and shall be set back from lot lines as required for structures in the zoning district. (effective: June 14, 2012)
- f. Hedges shall be set back a minimum of two (2) feet from the lot lines.
- g. No fence, wall, hedge, or screening shall be erected within the public right-of-way.
- h. No fence, wall, hedge, or screening shall be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways.
- i. No fence, wall, hedge, or screening shall be erected within the required Natural Vegetation Waterfront Buffer Strip on any waterfront parcel.

2. Mechanical Equipment. (This Subsection does not apply to single family residential uses, or to any use in an Industrial land use category except if it abuts a residential area.) When located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents, or chimneys, are to be screened to the height of the particular piece of equipment as follows:

- a. Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.
- b. Equipment at grade: When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties. Use of berms with trees for screening is encouraged (See Figure 3-7).



**Berm Design Detail**

**Figure 3-7**

3. Outdoor Storage. All outdoor storage shall be screened on all sides by a solid wall or fencing.

4. Public Utility Substations. All public utility substations shall be screened on all sides by a solid wall or fencing and landscaping.
5. Side and Rear Lot Lines. The side and rear property lines of all non-residential uses are to be screened as follows:
  - a. Adjacent to a Residential Use or Zone: See requirements of **Section 3.11**.
  - b. Industrial Zones: A solid wall or fencing is to be located on the side and rear property lines of any site within an Industrial zone that abuts another Zoning District or land use.

**B. Exceptions to Fencing and Screening Requirements**

1. Buildings Abutting Property Lines. Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
2. Location Adjustment. Where property line fencing or screening is required, landscape screening is considered preferable. If fencing is proposed, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the property lines are landscaped, or in rural areas, retained in their natural vegetative state at the discretion of the Planning Commission.
3. Existing Screening. Any fence, screen, wall or hedge which does not conform to the provisions of this Section and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge except as permitted in other sections of this Ordinance.

**C. Materials for Fencing and Screening**

1. Solid wood or vinyl fences with posts not less than nominal size four inches by four inches (4" x 4") and solid board cover not less than three-quarter (3/4") inch thick. Masonry piers may be substituted for posts. Posts or piers shall be spaced not more than eight (8) feet on center. The finished side of the fence shall face abutting properties.
2. Wrought iron, open mesh, chain link shall not exceed a ratio of one-part solid fencing to six parts open. (effective: June 14, 2012)
3. Masonry walls designed and constructed to facilitate maintenance and not modifying natural drainage in such a way as to endanger adjacent property. The outer face of such wall (the face away from the use which is to be screened) to be of clay, brick, stone, embossed or pierced concrete block, or other decorative masonry material.

**D. Barrier Fences**

Barrier fences containing barbed wire, electric charges or sharp materials at the top of a fence or wall less than six (6) feet in height are prohibited, except for agricultural purposes when a UL approved fencing unit is used, unless needed to protect the public safety and approved by the Planning Commission.

**E. Fire Hazard**

No fence shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the Fire Department in case of fire to buildings in the vicinity or which will constitute a hazard to street traffic or to pedestrians.

**Section 3.19 – Accessory Buildings**

- A.** In the GB, SWB, P, K, W, R-1, and MU Zoning Districts, no free-standing accessory structure may

be built prior to the principal dwelling or structure being completed. Only one accessory building shall be allowed. One additional shed, less than 200 square feet, may be built. Total square footage of all accessory structures shall not exceed the square footage of the first floor of the primary residence, excluding the garage, and must meet district standards.

- B. In all districts, a detached accessory building shall be located no closer to a front, side, or rear lot line than the permitted distance for the principal structure on the same lot.
- C. In all districts, manufactured housing shall not be used as an accessory building. (amended: August 4, 2009)
- D. In the RRF zoning district, in addition to one detached accessory building and one shed less than 200 sq. ft. in area per lot, parcels three (3) acres or larger may have an additional detached accessory building, for a total of two (2) accessory buildings, and parcels ten (10) acres or larger may have up to three (3) detached accessory buildings. These limitations do not apply to farm buildings located in the RRF district.

### **Section 3.20 – Permitted Uses (Towers)**

The following uses are specifically permitted in any zone:

- A. Telecommunication Towers and Alternative Tower Structures located on property owned, leased, or otherwise controlled by Evangeline Township, in the RRF districts provided a license or lease authorizing such Telecommunication Tower or Alternative Tower Structure has been approved by Evangeline Township.
- B. Antenna co-located on existing towers, provided the total height of the tower and antennae does not increase more than fifteen (15) feet.

### **Section 3.21 – Non-commercial Wind Turbine Generators**

- A. Non-commercial wind turbine generators and anemometer towers, (erected prior to a noncommercial wind turbine generator), may be located in any district, provided the WTG or anemometer tower is setback from the property line a distance at least equal to one and one-half the total height.
- B. The minimum site area for a non-commercial wind turbine generator or anemometer tower shall be three (3) acres.
- C. The maximum height excluding the blades shall not exceed one hundred twenty-six (126) feet. (amended: August 4, 2009)

### **Section 3.22 – Land Development**

In order to preserve the rural character of the Township and the safety of the residents, land development projects in all districts shall be subject to the following review and design standards:

- A. Land Development Projects Subject to Review:

All proposed land development projects that involve site condominiums, subdivisions, and non-platted land divisions which will result in four (4) or more site condominium units, lots, or parcels within a ten (10) year period of time are subject to site plan review. See Article VI, Site Plan Review. For purposes of this subsection, site condominium units, lots, or parcels that are created for common areas such as roads, pathways, or open spaces and are designated as such by appropriate site condominium documents, plat dedications, or deed restrictions, shall not be counted toward the maximum number of site condominium units, lots, or parcels.

- B. Unit Configuration and Design Standards:



1. Site condominium units and their adjoining common element yards (not roads), platted lots, and non-platted land divisions shall conform to the dimensional regulations of the District in which they are located (see **Section 5.11, Schedule of Regulations**) and the following additional standards:
  - a. Except as provided herein, a setback of two hundred fifty (250) feet shall be maintained from a pre-existing public road. The Planning Commission may reduce this required setback to no less than fifty (50) feet if it finds one of the following:
    - (1) A natural buffer or screening, such as a topographic change (hill or valley), or significant vegetation, such as woodlands, are present along the pre-existing public road such that the visual impact of the proposed development would be minimal from the public road.
    - (2) Strict adherence to the required two hundred fifty (250) feet setback would require the development to be located in a critical area (see **Section 3.08**).
  - b. If the Planning Commission reduces the required setback pursuant to subsection B.1.a. (2) above, then the Planning Commission may require additional landscaping to be planted within the setback area so that visual impact of the proposed development would be minimal from the public road.
  - c. One (1) access point to the proposed land development project shall be permitted for each master parcel and/or the first five hundred (500) feet of road frontage. One (1) additional access point to the proposed land development project shall be permitted for each additional full five hundred (500) feet of continuous road frontage. The Planning Commission may require shared access to the proposed land development via a service drive or via a public or private road.
2. The Planning Commission may require development design modifications (such as site condominium units, lots, or parcels be designed with reverse lot frontage or side lot orientation) in order to improve roadway safety, preserve the road character of the Township, and minimize the impact of the proposed land development project on natural resources.

### **Section 3.23 – Construction on Steep Slopes**

New construction on areas of steep slopes where the natural grade is 18% or greater is allowed subject to site plan review and provided all of the following conditions can be met without variance.

- A. On newly created lots, areas with slopes with natural grades of 33% or greater shall not be disturbed and shall be left in their natural state. (Note: The Planning Commission may at its discretion require a topography survey of the site done at a minimum of two (2) foot contours to ensure that this provision is met). The Planning Commission may allow new roads and access drives to be constructed in these areas when the applicant can clearly demonstrate that no other feasible alternatives exist. In these cases, the Planning Commission may place additional construction and siting requirements (E.G., use of retaining walls, maintaining additional vegetative cover, requiring additional vegetative cover, etc.) to ensure that they shall have the least impact on the landscape.
- B. New buildings shall not be located within 100 feet of lakes or rivers.
- C. Construction of new buildings shall be limited to a primary dwelling, and/or accessory structures provided the aggregate footprint area of the accessory structures does not exceed the total footprint area of the primary dwelling.
- D. Clearing and grading of a site shall be the minimum area to accommodate the proposed buildings or structures.

- E. Grade changes (cut or fill) for new construction in excess of six (6) vertical feet shall be allowed only if the Planning Commission finds that they shall be shielded from view from public roads or waterways by vegetation or topography.

- F. Construction of new buildings on lots created after the adoption of this Ordinance shall be limited to those areas that are covered, at the site of proposed construction and within 100 feet of this site, with pole or sawlog size timber stocked at a minimum density of 60 sq. ft. of Basil Area per acre. Only selective trimming of trees within a minimum of 100' of buildings or proposed building sites shall be allowed for "filtered views" (See Figure 3.08). Clear cutting of view corridors is prohibited.



**Figure 3.08**

- G. Roads servicing lots created after the adoption of this Ordinance shall either meet Charlevoix County Road Commission or Evangeline Township Private Road Ordinance construction standards with the exception that all new roads shall be paved.
- H. All new driveways and exterior parking areas in steep slope areas hereafter constructed shall be paved.
- I. Access drives on newly created lots, where a majority of the lot is covered by steep slopes, shall be limited to 250' of the public or private road servicing the lot. This requirement may be waived by the Planning Commission if no portion of the access drive servicing the building envelope shall exceed a 12% grade.
- J. All new development shall be constructed according to Charlevoix County Soil Erosion and Sedimentation Control standards and the Evangeline Township Stormwater Control Ordinance standards.
- K. Upon completion and prior to any occupancy or use, the Zoning Administrator shall inspect the site to affirm the construction has been completed in accordance with the approved plan. At the discretion of the Zoning Administrator, a certification may be required to be submitted by the Professional Engineer or licensed Architect of record, affirming the construction has been completed in accordance with the approved plans.
- L. All erosion and stormwater control measures shall be maintained in a workable condition at all times. All new lots created shall be required to have an agreement with the Township allowing the Township to enter the property to inspect these measures to ensure that they remain in compliance with this provision.

### **Section 3.24 - Impervious surfaces regulations**

Unless contradicted by specific regulation in other parts of this zoning ordinance, the following regulations apply concerning impervious surfaces as defined in this zoning ordinance.

- A. Impervious surface shall be calculated as the sum of the square footage of the footprint of all impervious surfaces as defined, except that the Planning Commission may allow the calculated impervious surface coverage to be modified as described in Section 3.24.B and Section 3.24.C. (amended June 23, 2021)
- B. The Planning Commission may determine that proposed pervious paving shall not be included in

impervious surface calculations when site plans include pervious paving systems which meet the requirements of this subsection. Plans for pervious paving systems must be designed to allow all potential run-off from a 50-year-frequency storm event to be absorbed on the lot. Plans for pervious paving systems must be designed to show system failure (for instance, a concave design where a puddle will form if the pervious system is clogged). Plans for pervious paving systems must be sealed by a civil engineer. A maintenance agreement requiring the property owner to properly maintain the pervious paving system shall be required. The maintenance agreement shall contain provisions granting township officials and their designees access to the property on which the pervious paving system is located for the purpose of inspecting and, if necessary, repairing the system and shall contain provisions that the costs of any inspections and/or repairs shall be assessed to the property owner and shall become a lien on the property if those costs remain unpaid for a period of 30 days after a written statement of those costs is sent to the property owner. The property owner shall record a copy of the maintenance agreement in the Charlevoix County Register of Deeds Office prior to the issuance of any zoning permits for the development of any lot covered by the maintenance agreement. The Planning Commission may allow a pervious paving system to mitigate impervious surfaces such as walkways and patios. In no case shall such systems be allowed to mitigate any area covered by structures.

- C. The Planning Commission may approve other systems (such as, but not limited to French drains and rain gardens) to offset impervious surfaces such as driveways, parking areas, and walkways upon finding(s) that such systems are adequate to mitigate the impervious surface. Plans for such systems must be sealed by a civil engineer. A maintenance agreement requiring the property owner to properly maintain the other approved system shall be required. The maintenance agreement shall contain provisions granting township officials and their designees access to the property on which the other approved system is located for the purpose of inspecting and, if necessary, repairing the system and shall contain provisions that the costs of any inspections and/or repairs shall be assessed to the property owner and shall become a lien on the property if those costs remain unpaid for a period of 30 days after a written statement of those costs is sent to the property owner. The property owner shall record a copy of the maintenance agreement in the Charlevoix County Register of Deeds Office prior to the issuance of any zoning permits for the development of any lot covered by the maintenance agreement. In no case shall such systems be allowed to mitigate any area covered by structures. (effective April 21, 2010)
- D. See Section 5.11.1 for additional regulations of impervious surfaces in waterfront districts. (effective: June 14, 2012)

### **Section 3.25 – Medical Use of Marijuana**

- A. Intent and Purpose. The purpose of this section is to implement land use regulations to address the medical use of marijuana as authorized by the enactment of the Michigan Medical Marijuana Act (hereinafter referred to as the “MMMA”), Initiated Law 1 of 2008, MCL 333.26423, *et seq*, and its administrative rules, R 333.101, *et seq*.
- B. Regulations for Qualifying Patients. The medical use of marijuana by a qualifying patient in that qualifying patient’s dwelling or an accessory building to that dwelling is hereby recognized as an accessory use to the principal residential use of the property and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:
  - 1. The qualifying patient must be issued and at all times must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
  - 2. All marijuana plants or products must be contained within the dwelling or accessory building in an enclosed, locked facility that permits access only by the qualifying patient.
  - 3. If a room with windows within the dwelling or accessory building is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must

not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.

**C.** Regulations for Primary Caregivers. The medical use of marijuana by a primary caregiver in a primary caregiver facility is hereby authorized as a use by right and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:

1. The primary caregiver must be issued and at all times must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
2. Except when being transported as provided in subsection 8 below, all marijuana plants or products must be contained within the primary caregiver facility in an enclosed, locked facility that segregates the marijuana plants and products for medical use for each qualifying patient and that permits access only by the primary caregiver.
3. If a room with windows within the primary caregiver facility is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
4. No more than one (1) primary caregiver shall be permitted to provide primary caregiver services within a single primary caregiver facility.
5. Except for any qualifying patients who reside with the primary caregiver at the primary caregiver facility, no more than two (2) qualifying patients may be present at the same time at a primary caregiver facility for any purpose directly related to primary caregiver services. This subsection, however, shall not be construed to prohibit the presence of qualifying patients at a primary caregiver facility for purposes unrelated to primary caregiver services.
6. Qualifying patient visits to a primary caregiver facility shall be restricted to between the hours of 8 a.m. and 5 p.m., except when (a) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or (b) the qualifying patient visits are for purposes unrelated to primary caregiver services.
7. No qualifying patients under the age of 18 (eighteen) shall be permitted at any time at a primary caregiver facility, except when (a) in the presence of his/her parent or guardian, or (b) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or (c) the qualifying patient visits are for purposes unrelated to primary caregiver services.
8. No marijuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the primary caregiver facility, except to a qualifying patient who resides with the primary caregiver at the primary caregiver facility. Except as provided herein, the primary caregiver shall deliver all marijuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo. In addition, all marijuana for medical use delivered to a qualifying patient shall be packaged so the public cannot see or smell the marijuana.
9. No marijuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a primary caregiver facility, except by a qualifying patient who resides with the primary caregiver at the primary caregiver facility.
10. A primary caregiver shall display at the primary caregiver facility indoors and in a manner legible and visible to his/her qualifying patients:

- a. A notice that qualifying patients under the age of eighteen (18) are not allowed at the primary caregiver facility, except when (a) in the presence of his/her parent or guardian, or (b) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or (c) the qualifying patient visits are for purposes unrelated to primary caregiver services, and
    - b. A notice that no dispensing or consumption of marijuana for medical use shall occur at the primary caregiver facility, except to or by a qualifying patient who resides with the primary caregiver at the primary caregiver facility.
  - 11. A primary caregiver facility shall not have any signage visible from the outdoors that would indicate the nature of the primary caregiver services being conducted in the primary caregiver facility.
  - 12. A primary caregiver facility shall not be located within 660 feet of the lot on which another primary caregiver facility is located and shall not be located within 1320 feet of a lot on which any of the following uses are located:
    - a. Any church or place of worship and its accessory structures.
    - b. Any public or private school, having a curriculum including kindergarten through twelve grade and its accessory structures.
    - c. Any preschool, child care or day care facility and its accessory structures.
    - d. Any public facility, such as libraries, museums, parks, playgrounds, public beaches, community centers, and other public places where children may congregate.
  - 13. The portion of the primary caregiver facility, including any room or area utilized to grow marijuana for medical use, shall contain electrical service and wiring, certified by an electrician licensed in the State of Michigan, meeting the applicable requirements of the electrical code in effect in the Township.
- D. Relationship to Federal Law. Nothing within this section is intended to grant, nor shall it be construed as granting, immunity from federal law. (effective: June 14, 2012)

### **Section 3.26 - Incidental items not structures**

The Planning Commission may exclude from the definition of a structure incidental items that are not specified in the definition of a structure when it finds that the unlisted incidental items have the same general characteristics as those incidental items excluded by the definition itself. (effective: June 14, 2012)

**Evangeline Township Shoreline Steep Slopes Map - Lake Charlevoix Shoreline**



(12% grade or greater as determined by 10' contour topographic maps produced by the Charlevoix County GIS Department)

**"If any portion of a parcel is identified as having steep slopes, any development on said parcel shall be reviewed and approved by the Evangeline Township Planning Commission prior to issuance of a zoning permit."**

Evangeline Township Shoreline Steep Slope Maps are defined as areas of the shoreline with 12% grade or greater as determined by 10' contours. The Planning Commission shall approve a 50' setback for areas identified on the Shoreline Steep Slope Maps where the existing and finished slope on any part of the site is determined to have no areas within 200' of the ordinary high watermark with a slope greater than 12% as shown at 2' contour intervals. (adopted: November 16, 2019)



**Evangeline Township Shoreline Steep Slopes Map - Walloon Lake Shoreline**



(12% grade or greater as determined by 10' contour topographic maps produced by the Charlevoix County GIS Department)

**"If any portion of a parcel is identified as having steep slopes, any development on said parcel shall be reviewed and approved by the Evangeline Township Planning Commission prior to issuance of a zoning permit."**

Evangeline Township Shoreline Steep Slope Maps are defined as areas of the shoreline with 12% grade or greater as determined by 10' contours. The Planning Commission shall approve a 50' setback for areas identified on the Shoreline Steep Slope Maps where the existing and finished slope on any part of the site is determined to have no areas within 200' of the ordinary high watermark with a slope greater than 12% as shown at 2' contour intervals. (adopted: November 16, 2019)

## **Article IV – Zoning Districts and Map**

### **Section 4.01 – Classification of Zoning Districts**

For the purpose of this Ordinance, the following Zoning Districts shall be established in Evangeline Township:

<b>GB</b> .....	Glenwood Beach District
<b>P</b> .....	Pinehurst Waterfront Residential District
<b>K</b> .....	Kriegerville Waterfront Residential District
<b>SWB</b> .....	Springwater Beach District
<b>W</b> .....	Walloon Waterfront Residential District
<b>R-1</b> .....	General Residential District
<b>MU</b> .....	Mixed Use District
<b>RRF</b> .....	Rural Residential/Farm Forest District
<b>R/CS</b> .....	Recreation/Community Service District
<b>I</b> .....	Industrial District

### **Section 4.02 – Zoning Map**

The areas assigned to each Zoning District and the boundaries thereof shown on the map entitled "Evangeline Township Zoning Map, Charlevoix County, Michigan" are hereby established, and said map and all proper notations and other information shown thereon are hereby made a part of this Zoning Ordinance.

### **Section 4.03 – Boundaries of Districts**

Unless otherwise specified, the boundary lines of the Zoning Districts shall be interpreted as following along section lines, or customary subdivisions of sections, or centerlines of highways or streets, or the shoreline of waterways, or property lines of legal record at the office of the Charlevoix County Register of Deeds on the date of the enactment of the Zoning Ordinance. The official Zoning Map shall be the final authority in any dispute concerning District boundaries. The official map shall be kept up to date, with any amendments to the Ordinance involving changes to the official map noted and portrayed on said map. Where the application of the above rules leave a reasonable doubt, as to the exact location of a District boundary, the provisions of the more restrictive District, shall govern the entire parcel in question, unless determined otherwise by the Zoning Board of Appeals.

### **Section 4.04 – Zoning of Vacated Areas**

Whenever any street, alley, highway, or other public right-of-way within the Township has been abandoned by official government action, such right-of-way lands attach to and become part of the land adjoining. Such right-of-way property shall automatically acquire and be subject to the provisions of the Zoning District of the abutting property. In the case of an abandoned right-of-way, which also serves as the District boundary, the centerline of the right-of-way shall be the District boundary.

### **Section 4.05 – Zoning of Filled Areas**

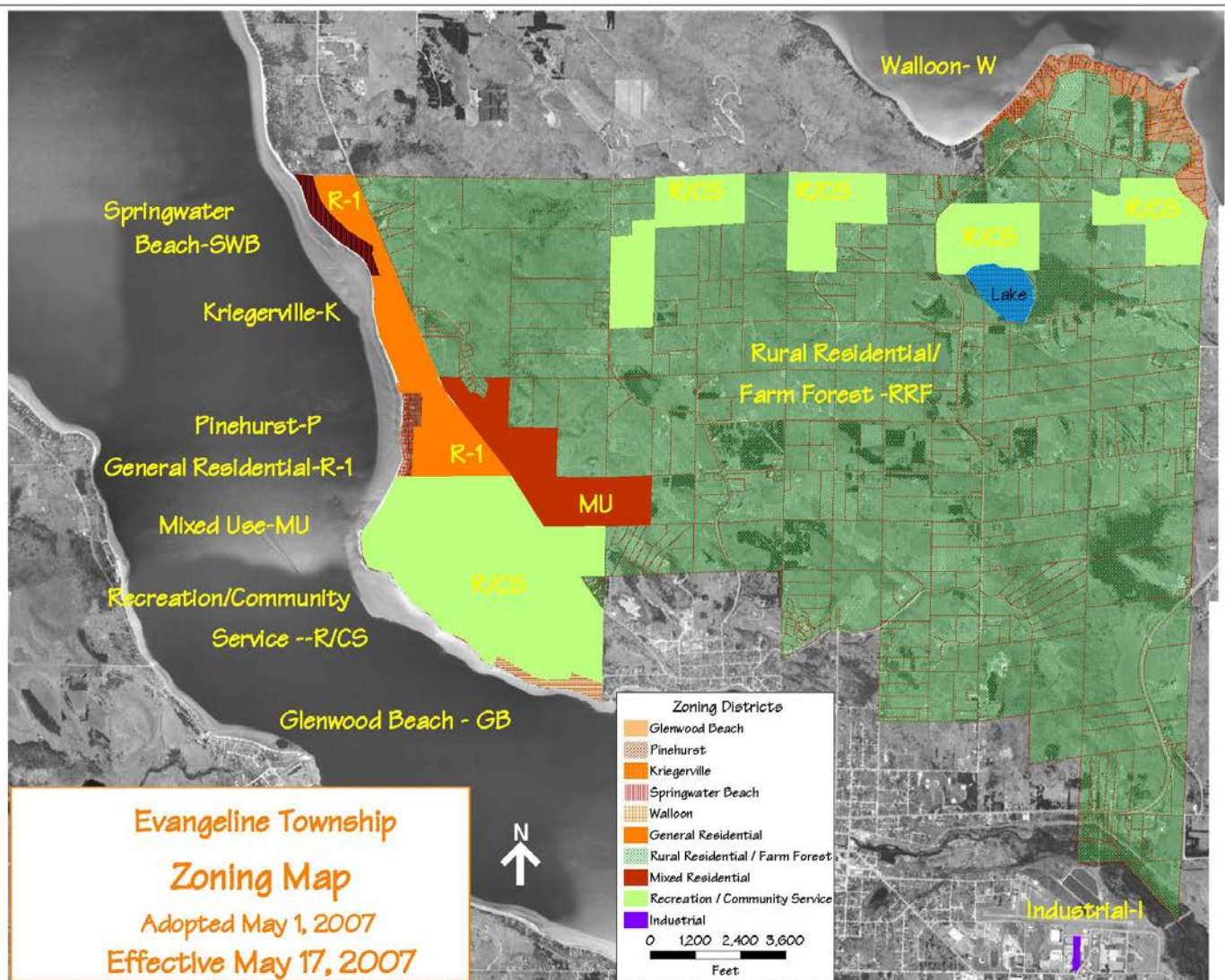
Whenever, after appropriate permits are obtained, any fill material is placed in any lake or stream so as to create a usable or buildable space, such fill area shall take on the Zoning District and accompanying provisions of the land abutting said fill area. No use on any lake or stream shall be allowed which does not conform to the Ordinance provisions on the property from which said property emanates. No fill material shall



be placed in any lake or stream within the Township unless appropriate permits are obtained from the Michigan Department of Environmental Quality.

#### Section 4.06 – Zoning District Changes

When District boundaries change, any non-conforming use may continue subject to all other applicable provisions of this Ordinance.



## Article V – Zoning Districts

### Section 5.01 – Glenwood Beach District (GB)

Evangeline Township

GB

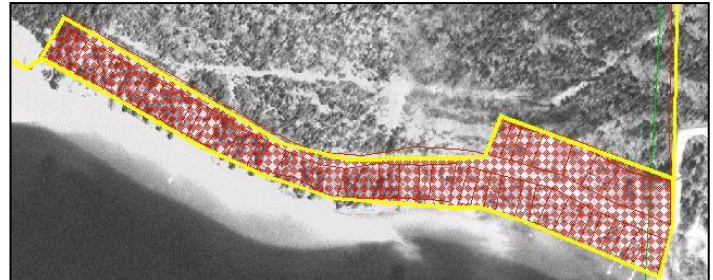
#### Section 5.01.1 – Intent

The intent in this district is to ensure that new development and redevelopment is in keeping with the cottage/resort character of the district.

#### Section 5.01.2 – Allowable Buildings and Structures

The following uses are allowed by right in this district:

- A. Single-family dwellings
- B. Home Occupations
- C. Building and other structures normally considered accessory to single-family dwellings
- D. Accessory dwelling unit (1) provided the property is owner-occupied
- E. Shoreline Protection structures, with MI Dept. of EGLE, or any successor state agency and Army Corps of Engineers permit. Standard sheet piling or concrete seawalls are prohibited except where the applicant can demonstrate to the Planning Commission that no other practical alternative exists. (amended: May 30, 2013)
- F. Public parks



Glenwood Beach District

#### Section 5.01.3 – General Development Standards – Glenwood Beach District

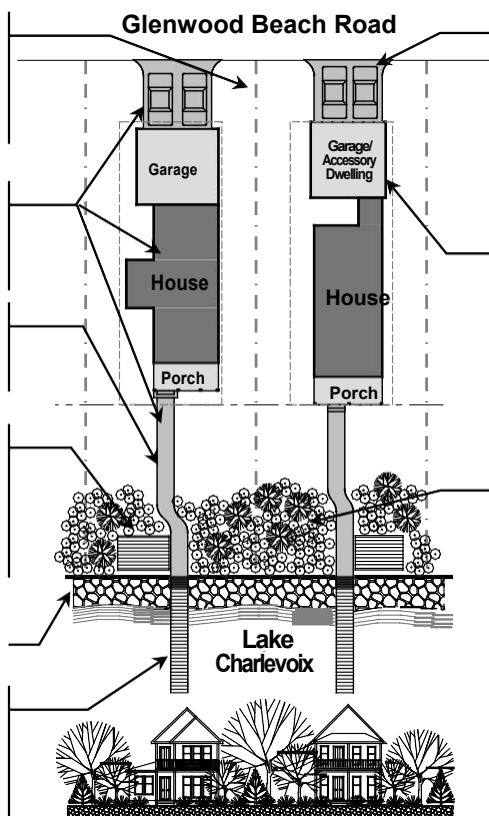
A. Fences may be constructed meeting the requirements of **Section 3.18** provided they do not encroach on the road or waterfront setbacks. The finished side fences shall face adjacent properties.

B. No more than a maximum of 15% or 2,500 sq. ft. (whichever is greater) of the lot area will be covered with impervious surface.

C. A single path a maximum of 6 ft. wide is allowed through the natural vegetation strip.

D. A single waterfront-viewing platform a maximum of 120 sq. ft. will be allowed per lot. This platform must be constructed at ground level and be made up of materials that allow for the infiltration of water.

E. One seasonal dock is allowed per lot. The length of the dock shall be limited to 150 ft. or the length necessary to extend out to a water depth of 4 ft., whichever is greater.



F. A minimum of two off street parking spaces are required per lot. Interior garage parking spaces may be counted toward this standard. Parking areas for newly created structures shall not encroach into side or waterfront setback areas.

G. A single attached or detached accessory dwelling, maximum of 800 sq. ft. in area, is allowed per lot, provided that said lot is served by adequate septic or sewer, and the lot owner resides on property. One additional parking space shall be required for an accessory dwelling unit.

H. A Natural Vegetation Waterfront Buffer Strip meeting the requirements of **Section 3.06** will be established and maintained as a condition for new development or redevelopment taking place on waterfront lots. Trees shall be scattered through out the strip and sited in a manner that allows for "filter" views of the water from the dwelling, as illustrated.

## Section 5.01.4 – Specific Development Standards – Waterfront Lots

(See Figure 5.01-1) amended: June 23, 2021

- A. **Water Frontage (A)** ..... 50' min.
- B. **Water Front Setback (B)** ..... 50' min. or 100' min. (see Section 5.11 – Schedule of Regulations)  
All buildings will be setback a minimum of 50' inland from the edge of an existing shoreline protection structure or if no structure is present, from a point, which is the high-water level elevation.
- C. **Front (Road) Setback (C)** ..... 25' min. from the edge of the pavement, except for lots less than 150' in width this setback shall be reduced to 18' min. from the edge of the pavement.
- D. **Road Frontage (D)** ..... 50' min.
- E. **Side Yard Setback (E)** ..... 10' min.  
(Properties abutting Brook Place, Aspen Place, Park Place, Birch Place, and Woodland Drive shall maintain a 10' setback from the road and shall be measured from the lot line) (see Section 5.11 – Schedule of Regulations)
- F. **Primary Dwelling Building Height (F)** ..... 30' max. with a maximum of two stories
- G. **Accessory Building Height (G)** ..... 25' max. or the height of the Primary Dwelling, whichever is less.

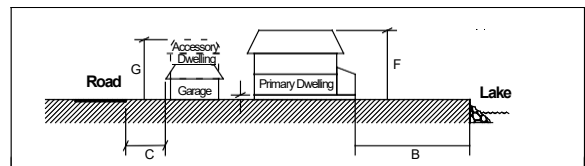
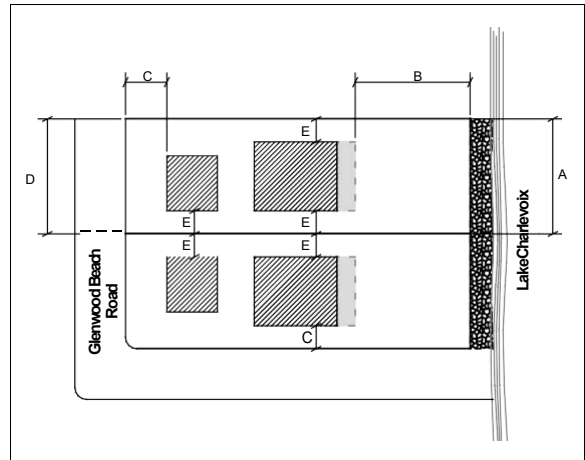


Figure 5.01-1

## Section 5.01.5 – Specific Development Standards–Back Lots

(See Figure 5.01-2) Amended: June 23, 2021

- A. **Lot Width (A)** ..... 100' min
- B. **Lot Depth (B)** ..... 140' min
- C. **Road Setback (C)** ..... 50' min. from the pavement edge of Glenwood Beach Road.
- D. **Rear Yard Setback (D)** ..... 20' min
- E. **Side Yard Setback (E)** ..... 10' min. (see Section 5.11 – Schedule of Regulations).
- F. **Primary Dwelling Building Height (F)** ..... 30' max. with a max. of two stories.
- G. **Accessory Building Height** ..... ' max or the height of the Primary Dwelling, whichever is less.

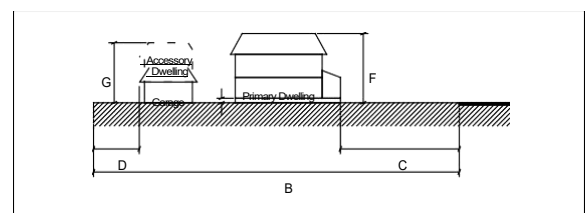
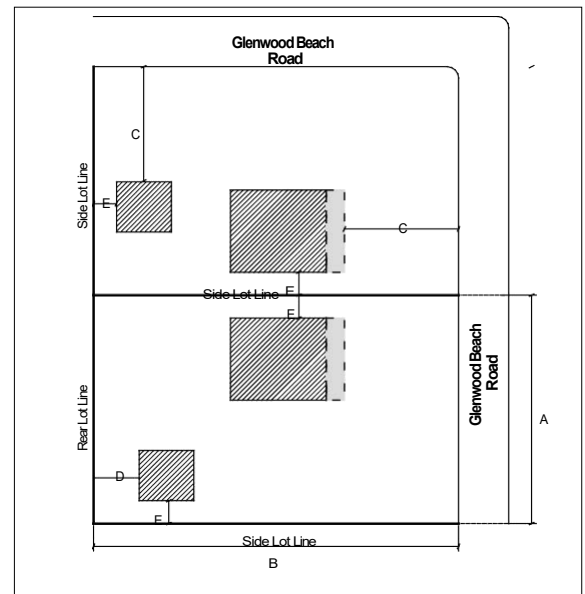


Figure 5.01-2

## Section 5.01.6 – Other Standards

- A. Future lots may only be made in a manner where all lots created will conform with all of the development standards of this district.
- B. A waterfront buffer strip a minimum of 5' in width shall be required along any ephemeral, intermittent or perennial stream. Such a buffer strip shall consist of undisturbed vegetation, the full length (within the borders of the lot).



## Section 5.02 – Pinehurst District (P)

## Evangeline Township

## P

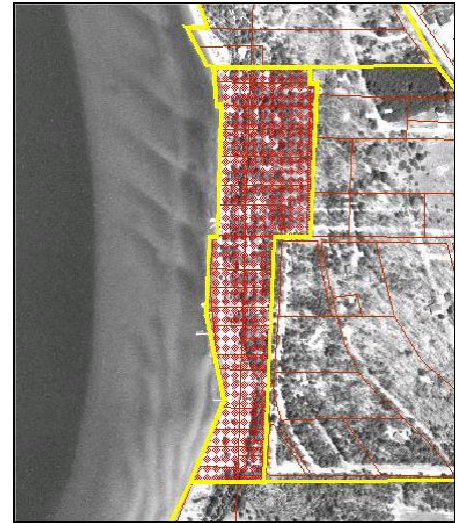
### Section 5.02.1 – Intent

The intent in this district is to ensure that new development and redevelopment is in keeping with the residential cottage/resort character of the district.

### Section 5.02.2 – Allowable Buildings and Structures

The following uses are allowed by right in this district:

- A. Single-family dwellings
- B. Home Occupation
- C. Building and other structures normally considered accessory to single-family dwellings
- D. Accessory dwelling unit (1), provided the property is owner-occupied
- E. Shoreline Protection structures, with MI Dept. of EGLE, or any successor state agency and Army Corps of Engineers permit. Standard sheet piling or concrete seawalls are prohibited except where the applicant can demonstrate to the Planning Commission that no other practical alternative exists. (amended: May 30, 2013)
- F. Public parks



Pinehurst District

### Section 5.02.3 – General Development Standards

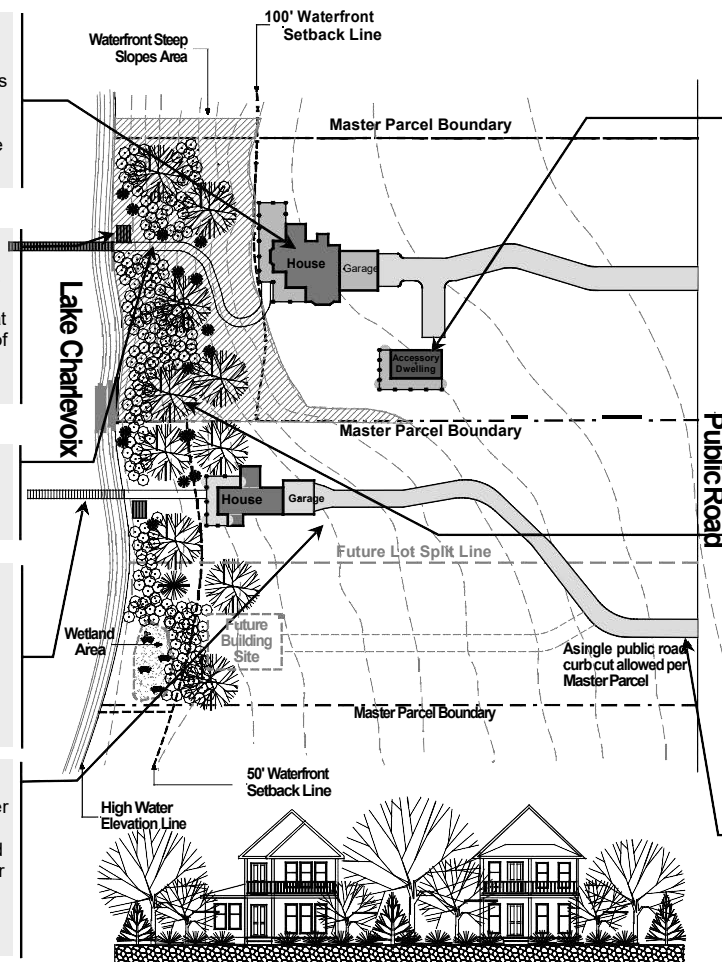
- A. No more than 25% or 3,000 sq. ft. whichever is greater of the total lot area may be impervious surface, of which no more than 15% of the area located within 500 ft. of the waterfront may be impervious surface.

- B. A single waterfront viewing platform a maximum of 120 sq. ft. will be allowed per lot. This platform must be constructed at ground level and be made up of materials that allow for the infiltration of water.

- C. A single path a maximum of 6 ft. wide is allowed through the natural vegetation strip.

- D. One seasonal dock is allowed per waterfront lot. The length of the dock shall be limited to 150 ft. or the length necessary to extend out to a water depth of 4 ft. whichever is greater.

- E. A minimum of two off street parking spaces are required per lot. Interior garage parking spaces may be counted toward this standard. Parking areas for newly created structures shall not encroach into side or waterfront setback areas.



- F. A single attached or detached accessory dwelling, maximum of 800 sq. ft. in area, is allowed per lot, provided that said lot is served by adequate septic or sewer, and the lot owner resides on property. One additional parking space shall be provided for the accessory dwelling unit.

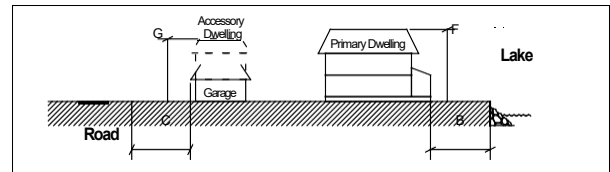
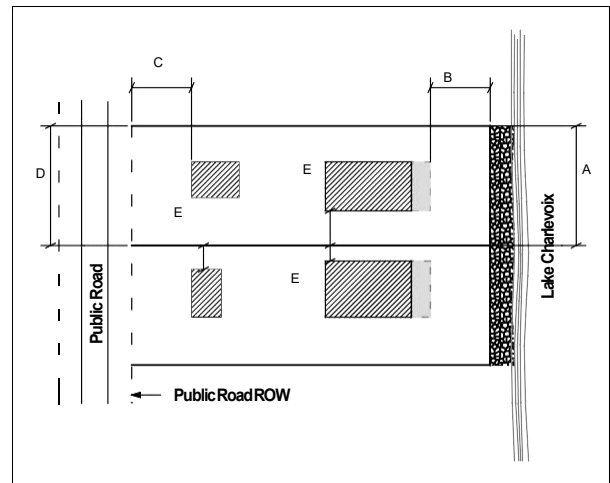
- G. A Natural Vegetation Waterfront Buffer Strip meeting the requirements of Section 3.06 will be established and maintained as a condition for new development or redevelopment taking place on waterfront lots. Trees shall be scattered throughout the strip and sited in a manner that allows for "filter" views of the water from the dwelling, as illustrated.

- H. A single curb cut shall be allowed per Master Parcel, any additional splits shall be provided access via the single curb cut.

## Section 5.02.4 – Specific Development Standard

(See Figure 5.02-1) Amended: June 23, 2021

- A. **Water Frontage (A)** ..... 100' min.
- B. **Water Front Setback (B)** ..... 50' min.  
All buildings will be setback a minimum of 50' upland from the High-Water Level Elevation as defined (*see Section 5.11 – Schedule of Regulations*)
- C. **Road Setback (C)** ..... 20' from right-of-way
- D. **Road Frontage (D)** ..... 60' min.
- E. **Side Yard Setback (E)** ..... 10' min. (*see Section 5.11 – Schedule of Regulations*).
- F. **Primary Dwelling Building Height (F)** ..... 30' max.  
with a maximum of two stories, except as allowed in the schedule of regulations.
- G. **Accessory Building Height (G)** ..... 25' max. or the height of the primary dwelling, whichever is less.



**Figure 5.02-1**

## Section 5.02.5 – Other Standards

- A. Future lots may only be made in a manner where all lots created will conform with all of the development standards of this district.
- B. A waterfront buffer strip a minimum of 5' in width shall be required along any ephemeral, intermittent or perennial stream. Such a buffer strip shall consist of undisturbed vegetation, the full length (within the borders of the lot).

## Section 5.03 – Kriegerville District (K)

## Evangeline Township

## K

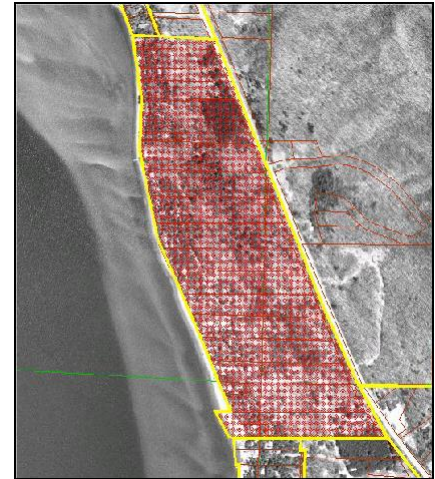
### Section 5.03.1 – Intent

The intent in this district is to ensure that new development and redevelopment is in keeping with the residential cottage/resort character of the district.

### Section 5.03.2 – Allowable Buildings and Structures

The following uses are allowed by right in this district:

- A. Single-family dwellings
- B. Home Occupation
- C. Building and other structures normally considered accessory to single-family dwellings
- D. Accessory dwelling unit (1), provided the property is owner-occupied
- E. Shoreline Protection structures, with MI Dept. of EGLE or any successor state agency and Army Corps of Engineers permit. Standard sheet piling or concrete seawalls are prohibited except where the applicant can demonstrate to the Planning Commission that no other practical alternative exists. (Amended: May 30, 2013)



Kriegerville District

### Section 5.03.3 – General Development Standards

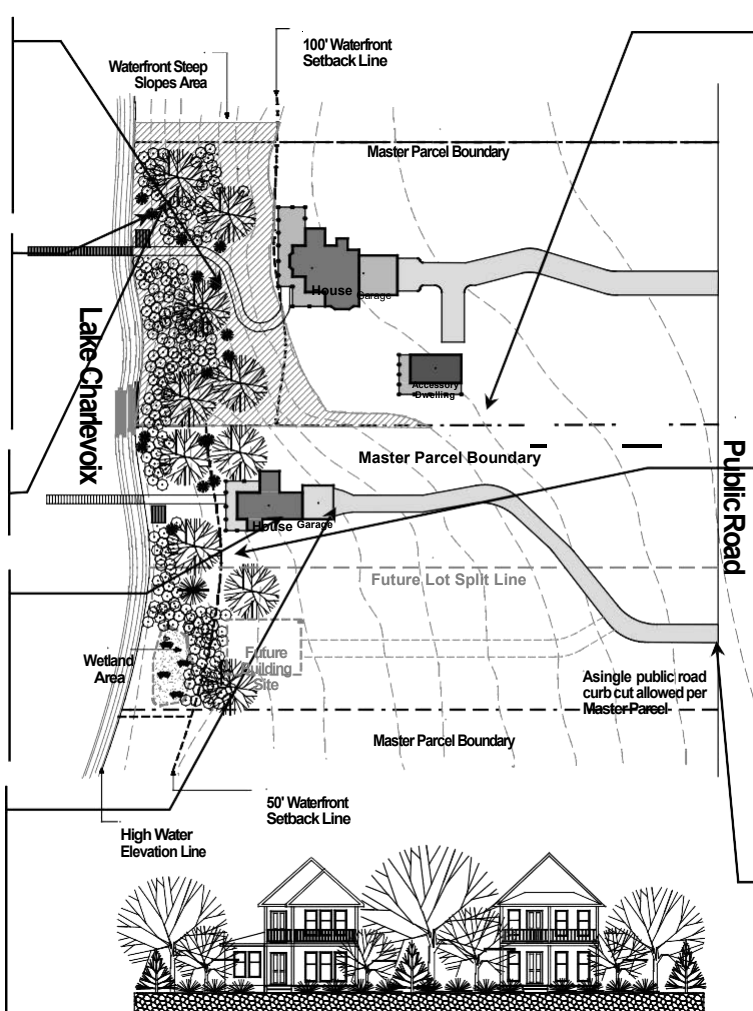
A. No more than 15% of the total lot area may be impervious surface, of which no more than 15% of the area located within 500' of the waterfront may be impervious surface.

B. A single waterfront viewing platform a maximum of 120 sq. ft. will be allowed per lot. This platform must be constructed at ground level and be made up of materials that allow for the infiltration of water.

C. A single path a maximum of 6 ft. wide is allowed through the natural vegetation strip.

D. One seasonal dock is allowed per waterfront lot. The length of the dock shall be limited to 150 ft. or the length necessary to extend out to a water depth of 4 ft. whichever is greater.

E. A minimum of two off street parking spaces are required per lot. Interior garage parking spaces may be counted toward this standard. Parking areas for newly created structures shall not encroach into side or waterfront setback areas.



F. A single attached or detached accessory dwelling, maximum of 800 sq. ft. in area, is allowed per lot, provided that said lot is served by adequate septic or sewer, and the lot owner resides on property. One additional parking space shall be provided for the accessory dwelling unit.

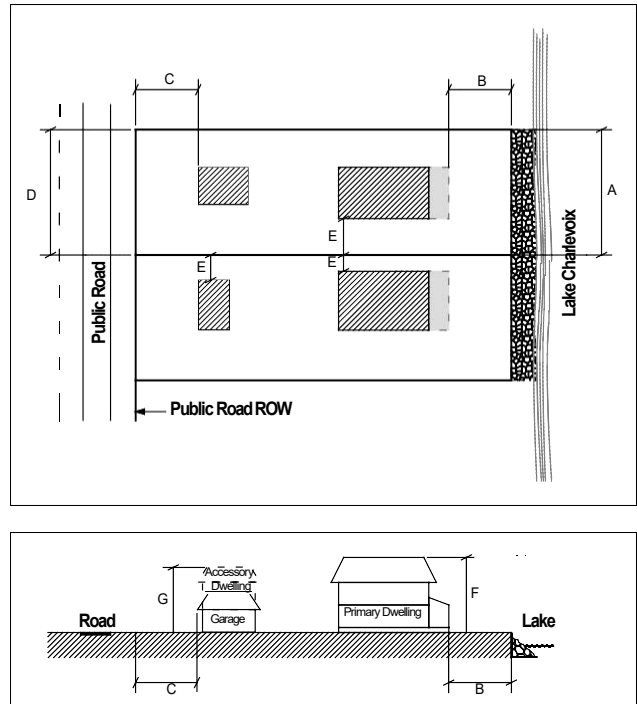
G. A Natural Vegetation Waterfront Buffer Strip meeting the requirements of Section 3.06 will be established and maintained as a condition for new development or redevelopment taking place on waterfront lots. Trees shall be scattered throughout the strip and sited in a manner that allows for "filter" views of the water from the dwelling, as illustrated.

H. A single curb cut shall be allowed per Master Parcel, any additional splits shall be provided access via the single curb cut.

### Section 5.03.4 – Specific Development Standard

(See Figure 5.03-1) Amended: June 23, 2021

- A. **Water Frontage (A)** ..... 100' min.
- B. **Water Front Setback (B)** ..... 50' min. \*\* All buildings will be setback a minimum of 50' (\*\*100' for areas identified on the Evangeline Township Shoreline Steep Slopes map in **Section 3.07**) upland from the high-water level elevation.
- C. **Road Setback (C)** ..... 50' min. from road right-of-way for Boyne City-Charlevoix Road, 20' for all others (see **Section 5.11 – Schedule of Regulations**).
- D. **Road Frontage (D)** ..... 75' min.
- E. **Side Yard Setback (E)** ..... 10' min. the total of the two side yard setbacks shall be no less than 25' minimum (see **Section 5.11 – Schedule of Regulations**).
- F. **Primary Dwelling Building Height (F)** ..... 30' Max. with a maximum of two stories, except as allowed in the schedule of regulations.
- G. **Accessory Building Height (G)** ..... 25' max. or the height of the primary dwelling, whichever is less.



**Figure 5.03-1**

### Section 5.03.5 – Other Standards

- A. Future lots may only be made in a manner where all lots created will conform with all of the development standards of this district.
- B. A waterfront buffer strip a minimum of 5' in width shall be required along any ephemeral, intermittent or perennial stream. Such a buffer strip shall consist of undisturbed vegetation, the full length (within the borders of the lot).



## Section 5.04 – Springwater Beach District (SWB)

## Evangeline Township

## SWB

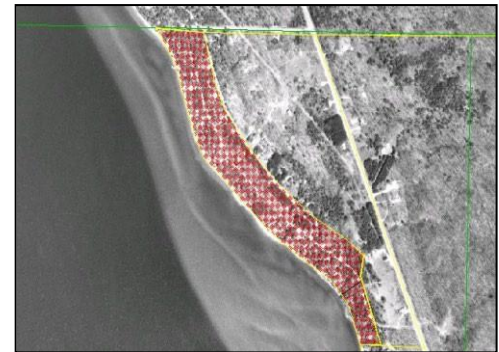
### Section 5.04.1 – Intent

The intent in this district is to ensure that new development and redevelopment is in keeping with the residential cottage/resort character of the district.

### Section 5.04.2 – Allowable Buildings and Structures

The following uses are allowed by right in this district:

- A. Single-family dwellings
- B. Home Occupations
- C. Building and other structures normally considered accessory to single-family dwellings
- D. Accessory dwelling unit (1), provided the property is owner-occupied
- E. Shoreline Protection structures, with MI Dept. of EGLE, or any successor state agency and Army Corps of Engineers permit. Standard sheet piling or concrete seawalls are prohibited except where the applicant can demonstrate to the Planning Commission that no other practical alternative exists. (Amended: May 30, 2013)



Springwater Beach District

### Section 5.04.3 – General Development Standards

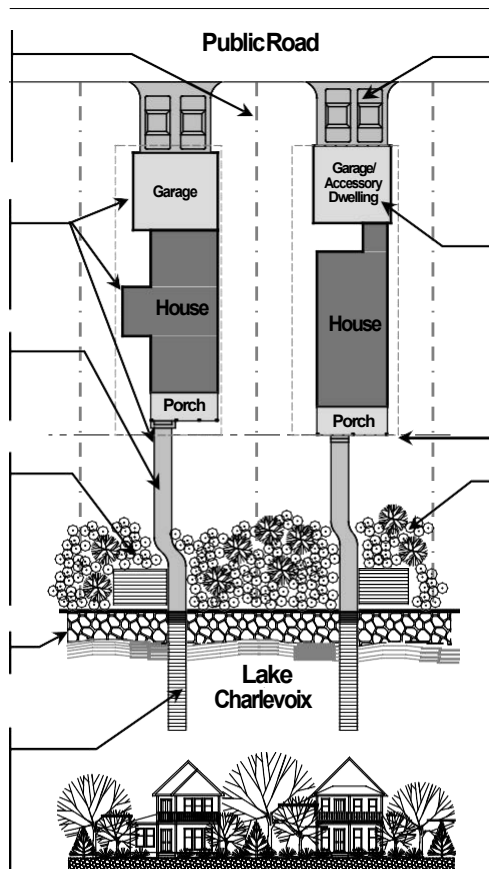
A. Fences may be constructed meeting the requirements of **Section 3.18** provided they do not encroach on the road or waterfront setbacks. The finished side fences shall face adjacent properties.

B. No more than a maximum of 15% or 2,500 sq. ft. (*whichever is greater*) of the lot area will be covered with impervious surface.

C. A single path a maximum of 6 ft. wide is allowed through the natural vegetation strip.

D. A single waterfront-viewing platform a maximum of 120 sq. ft. will be allowed per lot. This platform must be constructed at ground level and be made up of materials that allow for the free infiltration of water.

E. One seasonal dock is allowed per lot. The length of the dock shall be limited to 150 ft. or the length necessary to extend out to a water depth of 4 ft. whichever is greater.



F. A minimum of two off street parking spaces are required per lot. Interior garage parking spaces may be counted toward this standard. Parking areas for newly created structures shall not encroach into-side or waterfront setback areas.

G. A single attached or detached accessory dwelling, maximum of 800 sq. ft. in area, is allowed per lot, provided that said lot is served by adequate septic or sewer, and the lot owner resides on property. One additional parking space shall be required for an accessory dwelling unit.

Waterfront setback line.

H. A Natural Vegetation Waterfront Buffer Strip meeting the requirements of **Section 3.06** will be established and maintained as a condition for new development or redevelopment taking place on waterfront lots. Trees shall be scattered throughout the strip and sited in a manner that allows for "filter" views of the water from the dwelling, as illustrated.



## Section 5.04.4 – Specific Development Standard – Water Front Lots

(See Figure 5.04-1) Amended: June 23, 2021

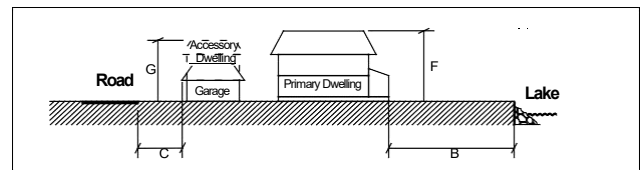
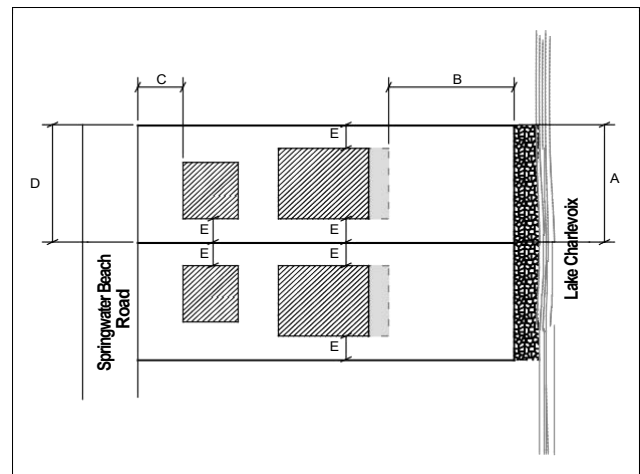
- A. **Water Frontage** ..... 50' min.
- B. **Water Front Setback** ..... 50' min.\*\*  
All buildings will be setback a minimum of 50' upland from the edge of an existing shoreline protection structure or if no shoreline protection structure is present, from a point which is the High-Water Level Elevation as defined.
- C. **Front (Road) Setback** ..... 25' min.  
Measured from lot line, except for lots less than 150' wide this setback shall be reduced to 18' min. from the front lot line.
- D. **Road Frontage** ..... 40' min.
- E. **Side Yard Setback** ..... 10' min.  
(Properties abutting Spring Street, Lake Street, Water Street, and Brook Street shall maintain a 10' setback from the road and shall be measured from the lot line) (see **Section 5.11 - Schedule of Regulations**).
- F. **Primary Dwelling Building Height** .... 30' max. Maximum of two stories.
- G. **Accessory Building Height** ..... 25' max. or the height of the Primary Dwelling, whichever is less.

\*\* 100' for areas identified on the Evangeline Township Shoreline Steep Slopes map in **Section 3.07**

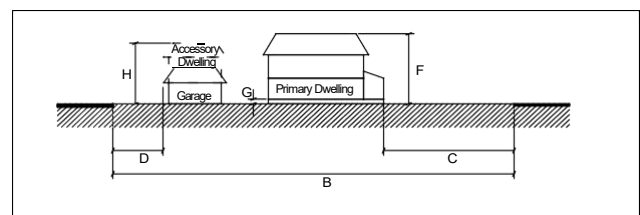
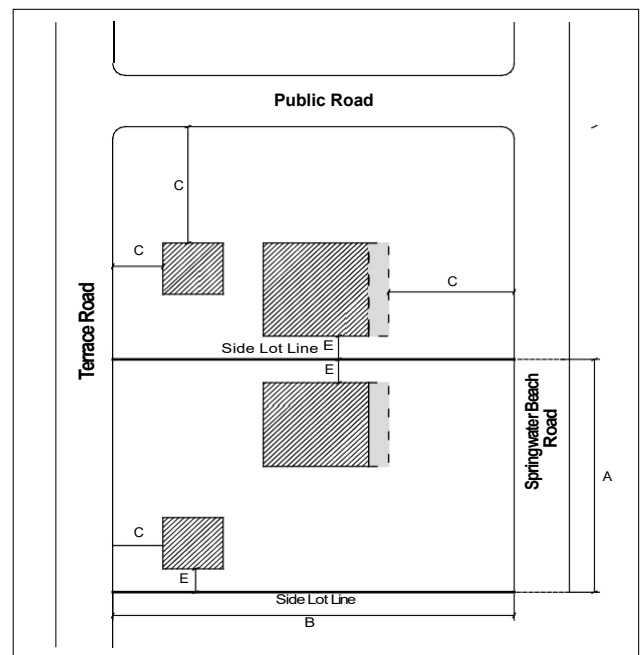
## Section 5.04.5 – Specific Development Standard – Back Lots

(See Figure 5.04-2) Amended: June 23, 2021

- A. **Lot Width** ..... 50' min.
- B. **Lot Depth** ..... 140' min.
- C. **Road Setback** ..... 50' min.  
Measured from lot line along Springwater Beach Road. (see **Section 5.04A.3 below**)
- D. **Rear Yard Setback** ..... 20' min.
- E. **Side Yard Setback** ..... 10' min.  
(see **Section 5.11 - Schedule of Regulations**).
- F. **Primary Dwelling Building Height** .... 30' max. Maximum of two stories.
- G. **Accessory Building Height** ..... 25' max. or the height of the Primary Dwelling, whichever is less.



**Figure 5.04-1**



**Figure 5.04-2**

### **Section 5.04.6 – Other Standards**

- A.** Future lots may only be made in a manner where all lots created will conform with all of the development standards of this district.
- B.** A waterfront buffer strip a minimum of 5' in width shall be required along any ephemeral, intermittent or perennial stream. Such a buffer strip shall consist of undisturbed vegetation, the full length (within the borders of the lot).

### **Section 5.04A – Terrace Road Overlay District**

#### **Section 5.04A.1 – Intent**

Due to the unique characteristics of properties located on Terrace Road; limited right-of-way, the pre-existing encroachments on the Terrace Road right-of-way by many existing structures, an Overlay District is established.

#### **Section 5.04A.2 – Definition of Overlay District**

Any property within the Spring Water Beach District which abuts Terrace Road shall be included in the Terrace Road Overlay District.

#### **Section 5.04A.3 – Regulations**

Property within the overlay district shall comply with all dimensional and use regulations for the underlying district, except as otherwise specified in this section. The road setback for properties in the Terrace Road Overlay District shall be reduced to twenty (20) feet from Terrace Road, and shall be measured from the lot line. Properties abutting Spring Street, Water Street, and Brook Street shall maintain a 10' setback from the road and shall be measured from the lot line.

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## Section 5.05 – Walloon Lake District (W)

## Evangeline Township

## W

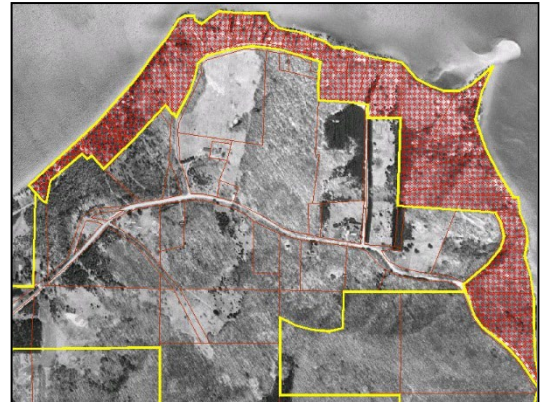
### Section 5.05.1 – Intent

The intent in this district is to ensure that new development and redevelopment is in keeping with the residential cottage/resort character of the district.

### Section 5.05.2 – Allowable Buildings and Structures

The following uses are allowed by right in this district:

- A. Single-family dwellings
- B. Home Occupation
- C. Buildings and other structures normally considered accessory to single-family dwellings
- D. Accessory dwelling unit (1) provided the property is owner-occupied
- E. Shoreline Protection structures, with MDEQ and Army Corps of Engineers permit. Standard sheet piling or concrete seawalls are prohibited except where the applicant can demonstrate to the Planning Commission that no other practical alternative exists. (Amended: May 30, 2013)



Walloon Lake District

### Section 5.05.3 – General Development Standards

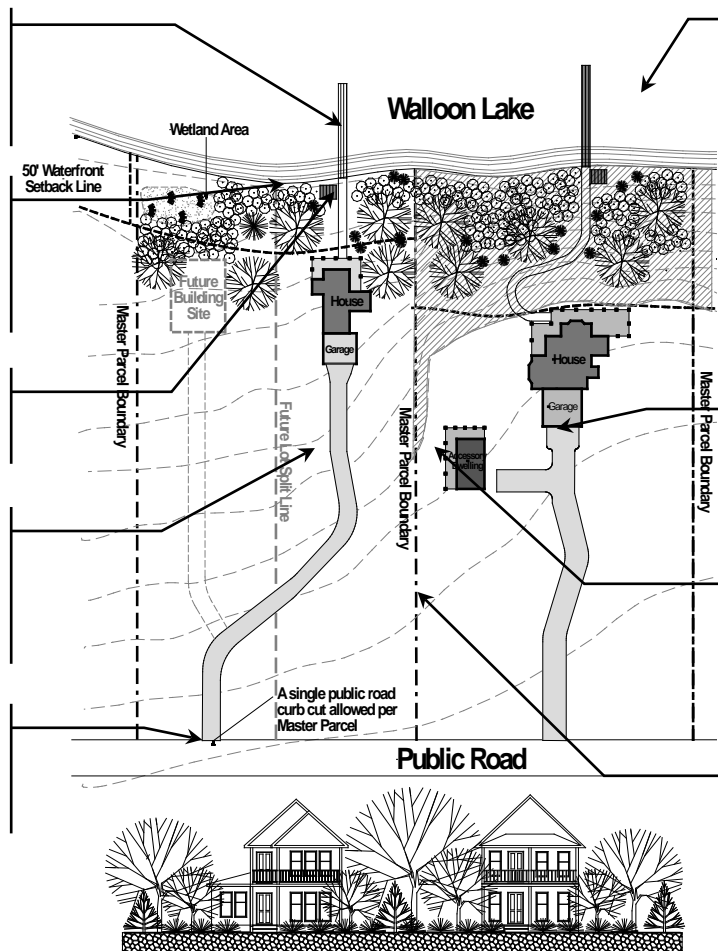
A. One seasonal dock is allowed per primary residence or lot. The length of the dock shall be limited to 150 ft. or the length necessary to extend out to a water depth of 4 ft, whichever is greater.

B. A single waterfront viewing platform a maximum of 120 sq. ft. will be allowed per lot. This platform must be constructed at ground level and be made up of materials that allow for the free infiltration of water.

C. A single path a maximum of 6 ft. wide is allowed through the natural vegetation strip.

D. No more than 15% or 3,000 sq. ft. (whichever is greater) of the total lot area may be impervious surface, of which no more than 15% of the area located within 200 ft. of the waterfront may be impervious surface.

E. A single curb cut shall be allowed per Master Parcel, any additional splits shall be provided access via the single curb cut.



F. A Natural Vegetation Waterfront Buffer Strip meeting the requirements of Section 3.06 will be established and maintained as a condition for new development or redevelopment taking place on waterfront lots. Trees shall be scattered throughout the strip and sited in a manner that allows for "filter" views of the water from the dwelling, as illustrated.

G. A minimum of two off street parking spaces are required per lot. Interior garage parking spaces may be counted toward this standard. Parking areas for newly created structures shall not encroach into side or waterfront setback areas.

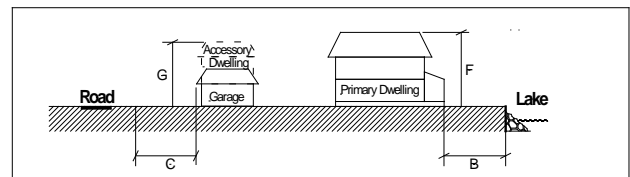
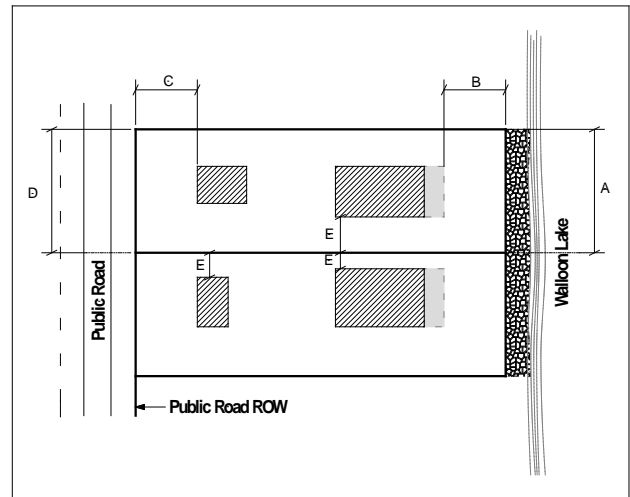
H. A single attached or detached accessory dwelling, maximum of 800 sq. ft. in area, is allowed per lot, provided that said lot is served by adequate septic or sewer, and the lot owner resides on property. One additional parking space shall be provided for the accessory dwelling unit.

I. Fences, meeting the requirements of Section 3.18 may be constructed, provided they do not encroach on the road or waterfront setbacks. Only the finished side fences will face adjacent properties.

## Section 5.05.4 – Specific Development Standard

(See Figure 5.05-1) amended: June 23, 2021

- A. **Water Frontage (A)** ..... 100' min.
- B. **Water Front Setback (B)** ..... 50' min.\*\*  
all buildings will be setback a minimum of 50' feet (\*\* 100' for areas identified on the Evangeline Township Shoreline Steep Slopes map in **Section 3.07**) upland from a point which is the high water level elevation. For Walloon Lake this level is the elevation of the outlet dam or as set by the courts, plus one half foot.
- C. **Road Setback (C)** ..... 20' min.  
from road right-of-way (50' minimum for Shadow Trails Road, see **Section 5.05A**) (see **Schedule of Regulations**).
- D. **Road Frontage (D)** ..... 75' min.
- E. **Side Yard Setback (E)** ..... 10' min.  
the two side yard setbacks shall be no less than 25' minimum. (see **Section 5.11 - Schedule of Regulations**).
- F. **Primary Dwelling Building Height (F)**  
.....  
30' max. with a maximum of two stories, except as allowed in the schedule of regulations.
- G. **Accessory Building Height (G)** ..... 25' or the height of the Primary Dwelling, whichever is less.



**Figure 5.05-1**

## Section 5.05.5 – Other Standards

- A. Future lots may only be made in a manner where all lots created will conform with all of the development standards of this district.
- B. A waterfront buffer strip a minimum of 5' in width shall be required along any ephemeral, intermittent or perennial stream. Such a buffer strip shall consist of undisturbed vegetation, the full length (within the borders of the lot).

## Section 5.05A – Shadow Trails Road Overlay District

### Section 5.05A.1 – Intent

Due to the unique characteristics of properties located on Shadow Trails Road limited right-of-way, an Overlay District is established.

### Section 5.05A. – Definition of Overlay District

Any property within the Walloon Lake District which abuts Shadow Trails Road shall be included in the Shadow Trails Road Overlay District.

**Section 5.05A.3 – Regulations**

Property within the overlay district shall comply with all dimensional and use regulations for the underlying district, except as otherwise specified in this section. The road setback for properties in the Shadow Trails Road Overlay District shall be increased to fifty (50) feet from Shadow Trails Road, and shall be measured from Shadow Trails Road right-of-way.

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## Section 5.06 – General Residential District (R-1)

## Evangeline Township

## R-1

### Section 5.06.1 – Intent

The intent in this district is to accommodate residential and related development on small lots (less than three (3) acres in size). Due to the limited ability of soils to absorb sewage waste and protect drinking water more intensive development is not allowed in this district.

### Section 5.06.2 – Allowable Buildings and Structures

The following uses are allowed by right in this district:

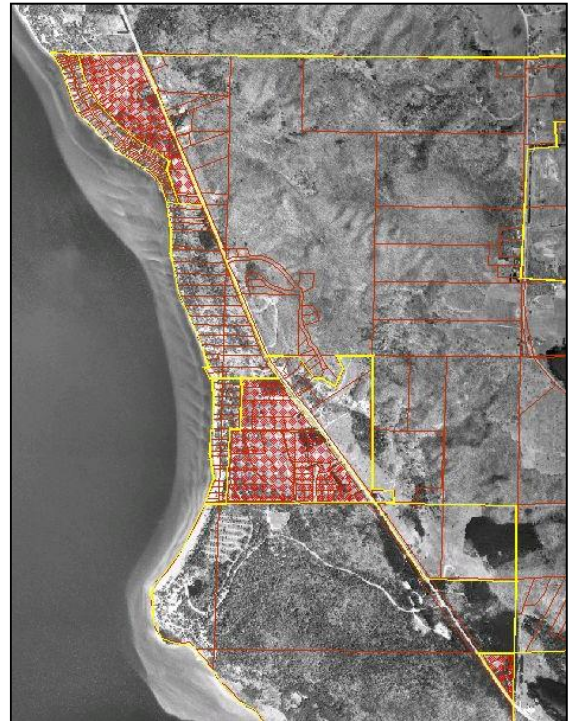
- A. Single-family dwellings
- B. Two-family dwellings
- C. Adult daycare facilities (6 residents or less)
- D. Child daycare facilities
- E. Home Occupations
- F. Building and other structures normally considered accessory to single-family dwellings
- G. Accessory dwelling unit (1) provided the property is owner-occupied

### Section 5.06.3 – Allowable uses subject to Special Use Permit

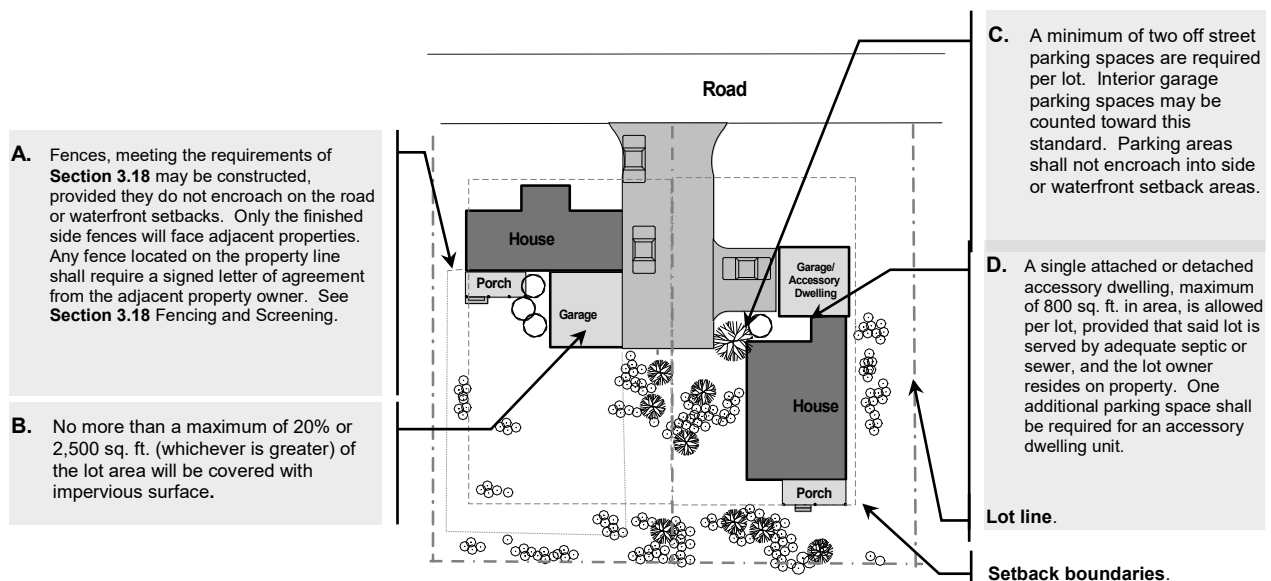
The following uses are allowed by special use permit, subject to **Section 7.02** and additional standards per Article VIII:

- A. Cottage Industry
- B. Nursing homes, assisted living facilities, convalescent homes, rest homes, public buildings, public schools, private schools, and their local supporting service uses, and places of worship.  
(amended: August 4, 2009)

### Section 5.06.4 – General Development Standards – Residential District



*General Residential District*





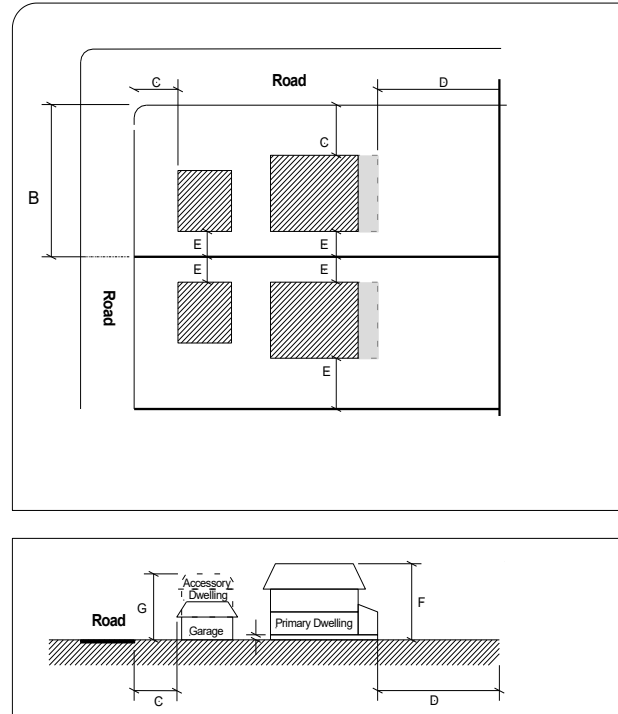
## Section 5.06.5 – Specific Development Standard

(See Figure 5.06-1) Amended June 23, 2021

- A. **Parcel Size** ..... 14,000 sq. ft. min.
- B. **Lot Width/Road frontage (B)** ..... 100' min.
- C. **Road (Front Yard) Setback (C)** ..... 25' min.  
(50' min. from Boyne City-Charlevoix Road)
- D. **Rear Yard Setback(D)** ..... 20' min.
- E. **Side Yard Setback (E)** ..... 10' min.
- F. **Primary Dwelling Building Height (F)**  
..... 30' with a maximum of two stories, except as allowed in the schedule of regulations.
- G. **Accessory Building Height (G)** ..... 25' or the height of the primary dwelling whichever is less.

## Section 5.06.6 – Other Standards

- A. Future lots may only be made in a manner where all lots created will conform with all of the development standards of this district.
- B. A five (5') minimum buffer shall be required along any ephemeral, intermittent or perennial stream. Such a buffer strip shall consist of undisturbed vegetation, the full length (within the borders of the lot).



**Figure 5.06-1**

## Section 5.07 – Mixed Use District (MU)

### Evangeline Township

### MU

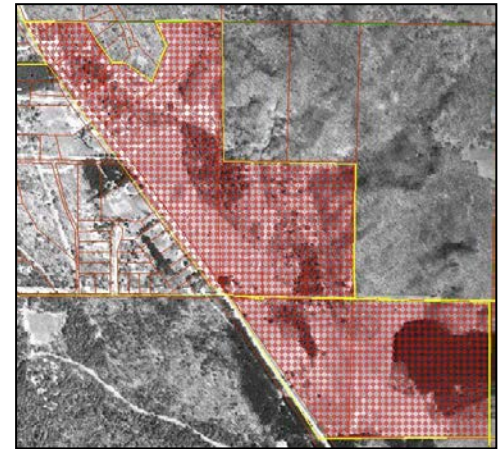
#### Section 5.07.1 – Intent

It is the intent of this Ordinance that parcels in this district be developed as either a coordinated interconnected mixed-use neighborhood with a variety of housing types and civic buildings located in close proximity, or as a combination of low-density residential and low-impact recreational uses. In addition, small areas of limited new storage and new commercial uses are allowed, provided that they are screened from the Boyne City / Charlevoix Road and adjacent uses. Provisions of this Article supersede all other provisions of this Ordinance that are in conflict.

#### Section 5.07.1A – Development Options

Land within the Mixed-Use District shall be developed under one of the following options:

- A. High-density land development, which shall comply with all of the applicable requirements of Section 5.07.2 – Section 5.07.23 of this Ordinance.
  - 1. All allowable uses for high-density land development are subject to Site Plan Review.
  - 2. All high-density land developments shall be required to be serviced by an adequate water/waste water system in compliance with one or more of the following options:
    - i. Approval of well and septic systems by the Health Department of Northwest Michigan.
    - ii. Connection to the water/waste water system of the City of Boyne City.
    - iii. A private water/waste water system which meets or exceeds all of the State of Michigan's requirements and standards of Part 41, Sewerage Systems, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA) for nongovernmental systems.
- B. Low-density land development, which shall comply with all of the applicable requirements of Section 5.07.24 – Section 5.07.29 of this Ordinance.



**Mixed Use District**

#### Section 5.07.2 – Allowable Uses for High-density Land Development

The following uses are allowed by right in this district:

- A. Single family dwellings
- B. Two-family dwellings
- C. Multiple family dwellings
- D. Accessory dwelling unit (1), provided the property is owner-occupied
- E. Residential dwellings on second floor of a commercial structure
- F. Public Parks, playgrounds or recreational facilities
- G. Child or Adult daycare facilities serving six (6) or fewer clients
- H. Accessory buildings and uses customarily incidental to the above permitted uses
- I. Nursing homes, assisted living facilities, convalescent homes, rest homes, public buildings, public schools, private schools, and their local supporting service uses, and places of worship. (amended: August 4, 2009)
- J. Low impact commercial recreational facilities, subject to the regulations of Section 8.18 (adopted February 1, 2011)

### **Section 5.07.3 – Allowable uses subject to Special Use Permit**

The following uses are allowed by special use permit, subject to **Section 7.02** and additional standards set forth in this Article and Article VII.

- A.** Commercial Mixed-Use areas
- B.** Campgrounds (subject to Article VIII) (adopted September 8, 2020)
- C.** Storage facilities for the exclusive use of residents of dwelling units, as developed under the provisions for high-density land development.
- D.** Accessory buildings customarily incidental to these permitted special uses.

### **Section 5.07.4 – Developable Area**

Except for roads, new development on the Master Parcel(s) shall be limited to areas where, according to the Soil Survey of Charlevoix County:

- A.** Slopes are less than 12%, and;
- B.** The seasonal high-water table is greater than 3' below the soil surface.
- C.** The remainder of the land shall be made up of conservation lands, which may include farmlands, forestland and recreation areas. (Note a Master Parcel is defined as a single parcel or series of adjacent parcels under one ownership).

### **Section 5.07.5 – Lot Types and Other Uses**

All high-density land developments shall consist of a mixture of two or more of the following lot types and uses:

- A.** Small single-family home lots
- B.** Large single-family/two family home
- C.** Multiple family housing
  - 1.** Two family home lots
  - 2.** Town house lots
  - 3.** Apartment building lots
  - 4.** Manufactured home development
- D.** Civic buildings

Internal open space areas will be scattered throughout the developed area. A minimum of 500 sq. ft. of buildable land per proposed home or apartment will be set aside for internal open space within the developed area. An additional 200 sq. ft. of buildable land per proposed home or apartment unit within this area shall be reserved for civic uses (churches, municipal buildings, libraries, schools, daycare centers, etc.).

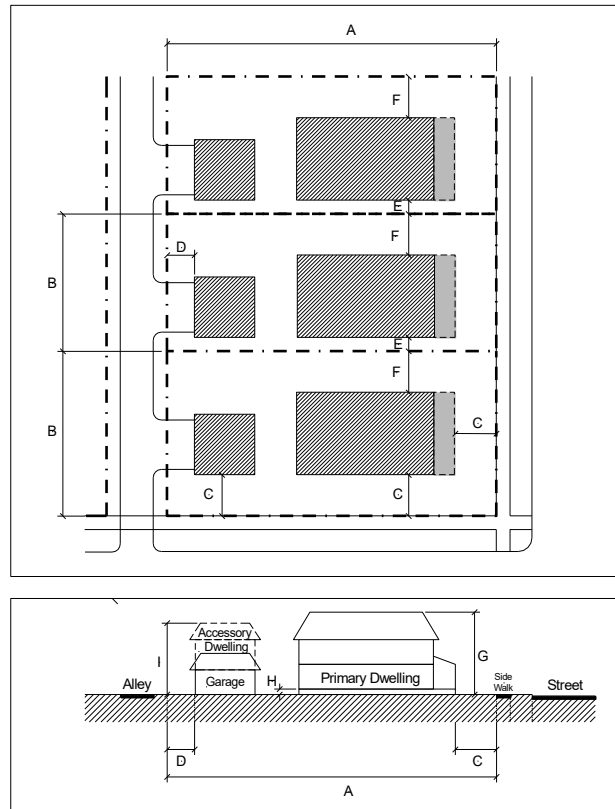
## Section 5.07.6 – Allowable Building Types – Small Single-Family Home Lots:

Single-family dwellings along with buildings and other structures that are normally considered accessory. A single attached or detached accessory dwelling less than 800 sq. ft. in area is also allowed on lots *(provided the lot owner lives in one of the dwellings on the lot)*.

## Section 5.07.7 Dimensional Standards – Small Single-Family Lots:

(See Figure 5.07-1)

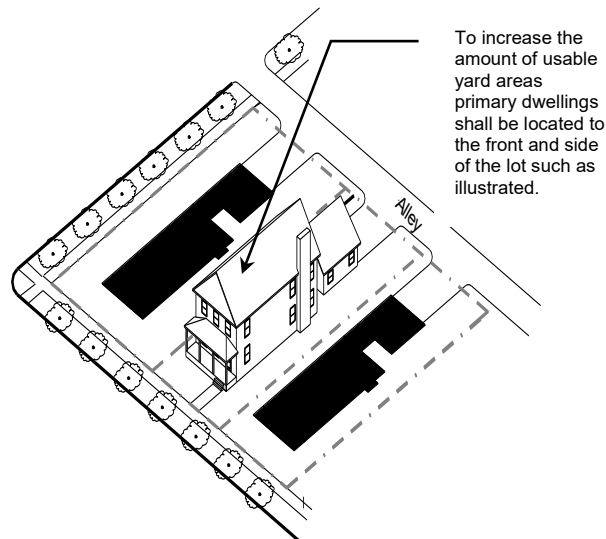
- A. **Lot Depth (A)** ..... 100' min. to 120' max.
- B. **Lot Width (B)** ..... 50' min. to 70' max. (Corner lots may be a maximum of 60' in width)
- C. **Street Front Setback (C)** ..... 15' min. to 20' max.
- D. **Rear Yard Setback (D)** ..... 10' min. from the rear lot line.
- E. **Side Yard Setback (E)** ..... 5' min.
- F. **Opposing Side Yard Setback (F)** ..... 10' min.
- G. **Primary Dwelling Height (G)** ..... 35' max. Chimneys are excluded from this height requirement)
- H. **Street Front Stoop Height (H)** ..... 2' min.
- I. **Accessory Building Height (I)** ..... 25' max. or the height of the primary dwelling whichever is less. (Chimneys are excluded from this height requirement)



**Figure 5.07-1 – Dimensional Standards  
Small Single Family Home Lots**

## Section 5.07.8 – Other Specific Standards – Small Single-Family Home Lots

- A. **Minimum Roof Pitch:** ..... 8/12 or greater on the main portion of the dwelling. Dormers and porch roofs are excluded from this standard.
- B. **Number of stories in Primary Dwelling:** ..... A maximum of 2½ stories.
- C. **Maximum Building Coverage:** ..... 40% of the gross lot area.
- D. **Maximum Impervious Surface Coverage:** ..... 50% of the gross lot area. *(impervious surfaces include all areas which prevent the free infiltration of water)*
- E. **Off-street Parking:** ..... 2 spaces minimum per primary dwelling plus one additional space if an accessory dwelling is constructed *(Interior garage parking areas may be counted toward this standard)*. All off street parking areas shall be located off of the back alley.
- F. **Alley Requirement:** ..... All small single-family home lots shall back onto a service alley.



### Section 5.07.9 – Allowable Building Types – Large Single- and Two-Family Home Lots:

- A. Single-family dwellings along with buildings and other structures that are normally considered accessory. A single attached or detached accessory dwelling maximum size 800 sq. ft. in area is also allowed on lots (provided the lot owner lives in one of the dwellings on the lot).
- B. Two family dwellings along with buildings and other structures that are normally considered accessory. These structures shall resemble a large single-family home.

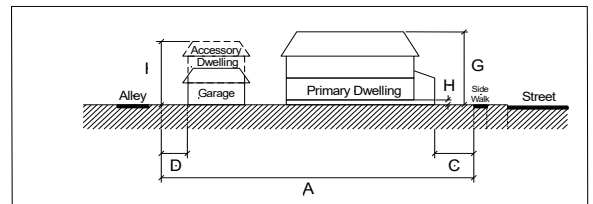
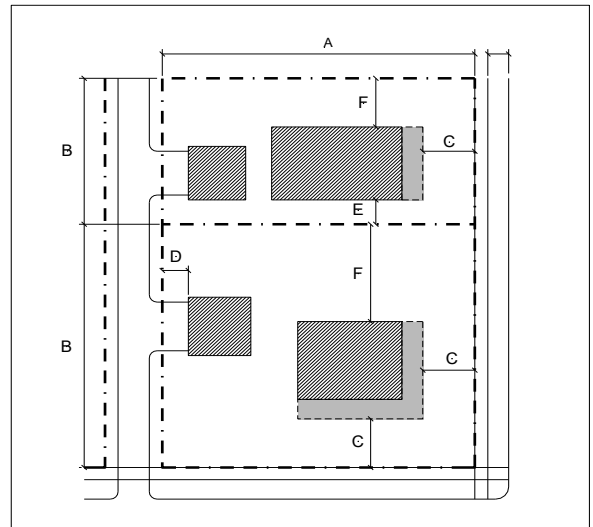
### Section 5.07.10 – Dimensional Standards – Large Single- and Two-Family Home Lots: Lots

(See Figure 5.07-2)

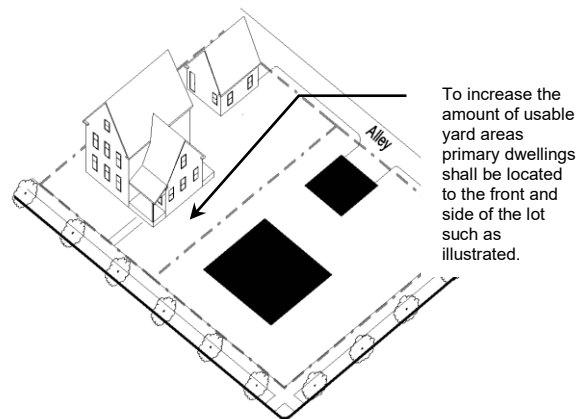
- A. **Lot Depth (A)** ..... 100' min. to 120' max.
- B. **Lot Width (B)** ..... 60' min. to 120' max.
- C. **Street Front Setback (C)** ..... 20' min. to 30' max.
- D. **Rear Yard Setback (D)** ..... 30' min. for the primary dwelling and 10' min. for accessory structures.
- E. **Side Yard Setback (E)** ..... 10' min.
- F. **Opposing Side Yard Setback (F)** ..... 20' min.
- G. **Primary Dwelling Height (G)** ..... 35' max. (Chimneys are excluded from this height requirement)
- H. **Street Front Stoop Height (H)** ..... 2' min.
- I. **Accessory Building Height (I)** ..... 25' max. or the height of the primary dwelling whichever is less. (Chimneys are excluded from this height requirement)

### Section 5.07.11 – Other Specific Standards – Large Single- and Two-Family Home Lots

- A. Max. Primary Dwelling Total Area ..... 6000 sq. ft.
- B. Number of stories in Primary Dwelling...2 stories or 2 ½ stories if the roof pitch is 8/12 or greater
- C. Maximum Building Coverage ..... 40% of the gross lot area
- D. Maximum Impervious Surface Coverage ..... 50% of the gross lot area. (*Impervious surfaces include all areas which prevent the free infiltration of water*)
- E. Off-street Parking ..... 2 spaces minimum per primary dwelling plus one additional space if an accessory dwelling is constructed (*Interior garage parking areas may be counted toward this standard*). All off street parking areas shall be located off of the back alley.
- F. Alley Requirement ..... All lots shall back onto a service alley.



**Figure 5.07-2 – Dimensional Standards  
Large Single- and Two-Family Home Lots**



To increase the amount of usable yard areas primary dwellings shall be located to the front and side of the lot such as illustrated.

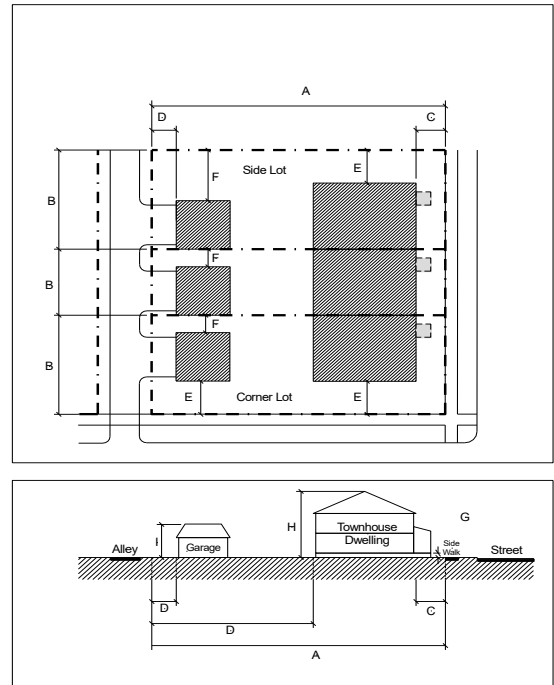
## Section 5.07.12 – Allowable Building Types – Common Wall Townhouse Dwellings

Common wall townhouse dwellings (*limited to five townhouses per grouping*) along with buildings and other structures that are normally considered accessory. The front façade for each town house shall include architectural characteristics that shall distinguish it from adjacent units.

## Section 5.07.13 – Dimensional Standards – Common Wall Townhouse Dwellings

(See Figure 5.07-3)

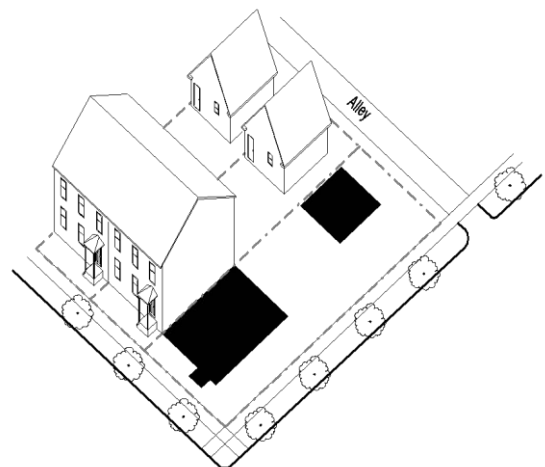
- A. **Lot Depth (A)** ..... 100' min. to 120' max.
- B. **Lot Width (B)** ..... 20' min. to 30' max. (*Corner and Side lots may be a maximum of 45' wide*)
- C. **Street Front Setback (C)** ..... 10' min.
- D. **Rear Yard Setback (D)** ..... 10' min. or accessory structures and 35' min for the dwelling.
- E. **Side Yard Setback (E)** ..... 15' min. (*Except for common walls*)
- F. **Side yard Setback for Accessory Building (F)** ..... 8' min. on one side. 0' for the opposite side.
- G. **Street Front Stoop Height (G)** ..... 2' min.
- H. **Dwelling Height (H)** ..... 35' max. (*Chimneys are excluded from this height requirement*)
- I. **Accessory Building Height (I)** ..... 25' or the height of the primary dwelling whichever is less.



**Figure 5.07-3 - Dimensional Standards  
Townhouse Lots**

## Section 5.07.14 – Other Specific Standards – Common Wall Townhouse Dwellings

- A. **Number of stories in Dwelling** ..... 2 stories or 2 ½ if the roof pitch is 8/12 or greater.
- B. **Maximum Building Coverage** ..... 50% of the gross lot area
- C. **Maximum Impervious Surface Coverage** ..... 60% of the gross lot area. (*impervious surfaces include all areas which prevent the free infiltration of water*)
- D. **Off-street Parking** ..... 2 spaces min. per dwelling (*interior garage parking areas may be counted toward this standard*). All off street parking areas shall be located off of the back alley.
- E. **Alley Requirement** ..... All townhouse lots shall back onto an alley.



### Section 5.07.15 – Allowable Building Types – Apartment Building Lots

Apartment buildings containing up to a maximum of 6 dwelling units per building along with buildings and other structures that are normally considered accessory).

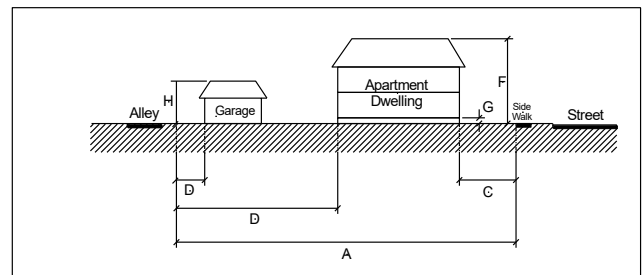
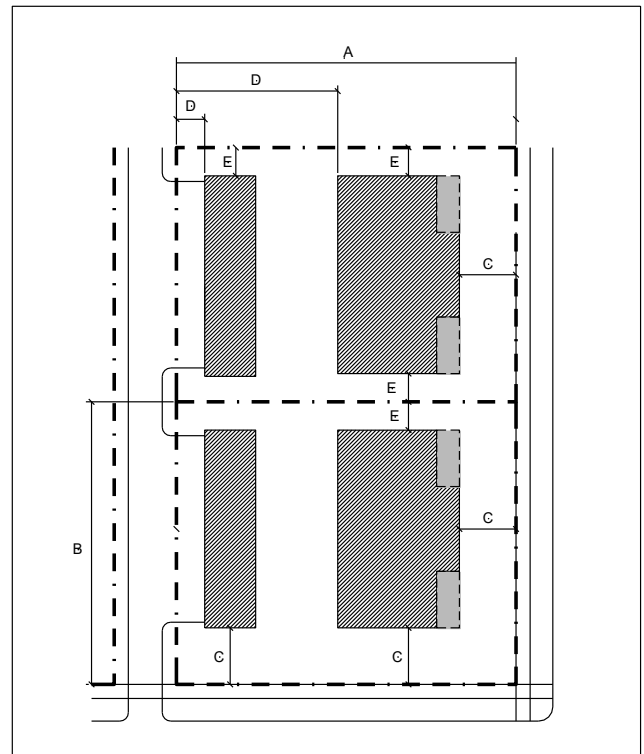
### Section 5.07.16 – Dimensional Standards Apartment Building Lots

(See Figure 5.07-4)

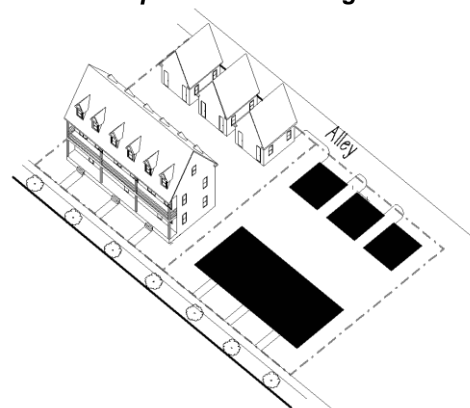
- A. **Lot Depth (A)** ..... 100' min. to 120' max.
- B. **Lot Width (B)** ..... 80' min. to 115' max.
- C. **Street Front Setback (C)** ..... 15' facing façade lines
- D. **Rear Yard Setback (D)** ..... 10' min. for accessory structures and 35' min for the apartment building.
- E. **Side Yard Setback (E)** ..... 15' min.
- F. **Dwelling Height (F)** ..... 35' max. (Chimneys are excluded from this height requirement)
- G. **Street Front Stoop Height (G)** ..... 2' min.
- H. **Accessory Building Height (H)** ..... 25' or the height of the primary dwelling whichever is less.

### Section 5.07.17 – Other Specific Standards – Apartment Building Lots

- A. **Number of stories in Dwelling** ..... 2 stories or 2 ½ stories if the roof pitch is 8/12 or greater.
- B. **Maximum Building Coverage** ..... 60% of the gross lot area.
- C. **Maximum Impervious Surface Coverage** ..... 70% of the gross lot area. (Impervious surfaces include all areas which prevent the free infiltration of water)
- D. **Off-street Parking** ..... 2 spaces minimum per dwelling (interior garage parking areas may be counted toward this standard). All off street parking areas shall be located off of the back alley
- E. **Alley Requirement** ..... All apartment buildings shall back onto a service alley.



**Figure 5.07-4 – Dimensional Standards  
Apartment Building Lots**



## Section 5.07.18 – Allowable Building Types – Civic Building Lots

Civic Buildings including schools, libraries, day care centers, churches, meeting and recreation halls.

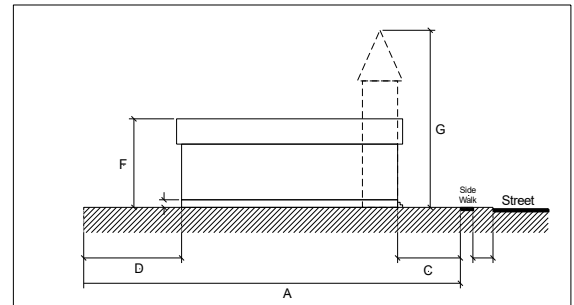
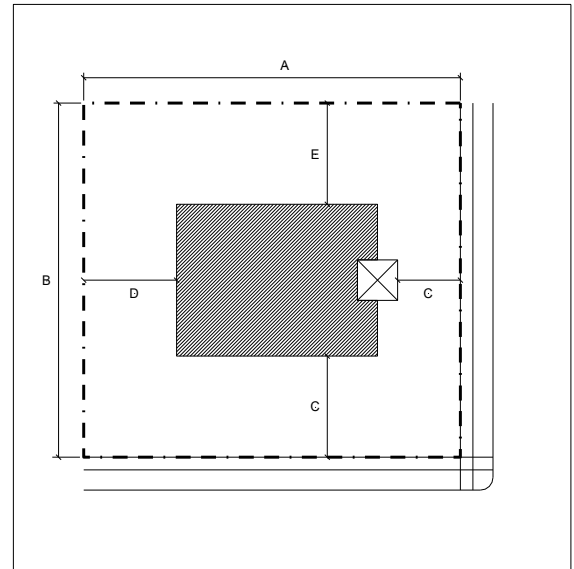
## Section 5.07.19 – Dimensional Standards – Civic Building Lots

(See Figure 5.07-5)

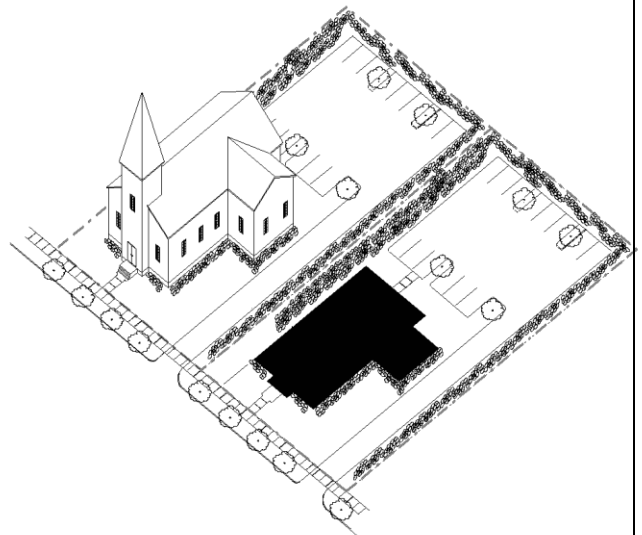
- A. **Depth (A)** ..... 120' min. to 200' max.
- B. **Lot Width (B)** ..... 120' min. to 200' max.
- C. **Street Front Setback (C)** ..... 0-25' min.
- D. **Rear yard setback (D)** ..... 35' min.
- E. **Side Yard Setback (E)** ..... 0' min.
- F. **Building Height (F)** ..... 35' max.  
(Chimneys are excluded from this height requirement)
- G. **Steeple/Tower Height\* (G)** ..... 75' max. \*  
allowed for civic buildings only.

## Section 5.07.20 – Other Specific Standards – Civic Building Lots

- A. **Minimum Roof Pitch** ..... 8/12 or greater
- B. **Maximum Building Coverage** ..... 60% of the gross lot area.
- C. **Maximum Impervious Surface Coverage** ..... 70% of the gross lot area. (Impervious surfaces include all areas which prevent the free infiltration of water)
- D. **Off-street Parking** ..... 1 space min. 750 sq. ft. of interior building area. Shared parking agreements are encouraged. All off street parking areas shall be located in the rear of the buildings. Dense planted shrubs a minimum of 5' in height shall be used to screen parking areas from adjacent properties.



**Figure 5.07-5 – Dimensional Standards  
Civic Building Lots**

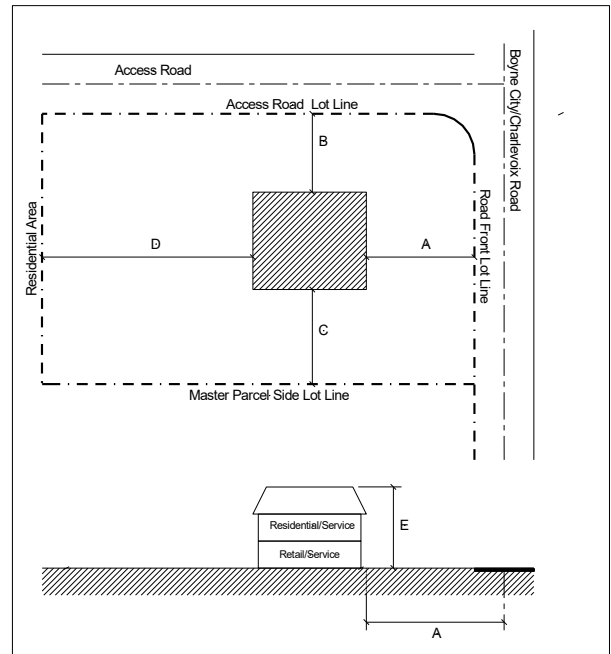




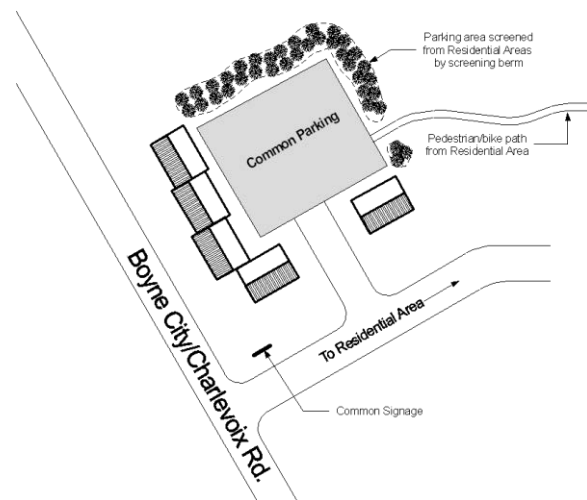
## Section 5.07.21 – Commercial Mixed-Use areas

Commercial Mixed-Use areas are allowed as special land uses if all the following conditions are met:

- A. They shall be located on **Master Parcels** with a minimum of 300 feet of frontage on the Boyne City/Charlevoix Road
- B. They are part of a mixed-use project containing a high-density residential component or campground, covering the majority of the developable area of the Master parcel.
- C. Commercial Mixed-Use area shall be a maximum of 2 acres in area
- D. All buildings with retail/service component shall be two stories with retail/service on the lower floor. The upper floor may be residential along with retail/service
- E. Buildings shall face the Boyne City/Charlevoix Road or an access road leading to the residential component (see illustration)
- F. Except for service stations no business with drive through facilities shall be allowed
- G. No separate curb cuts on the Boyne City/Charlevoix Road shall be allowed for Commercial Mixed-Use areas
- H. Parking shall be in a shared common area rather than in separate parking areas
- I. All parking facilities shall be located to the rear and side of buildings. No new parking areas shall front on the Boyne City/Charlevoix Road
- J. Parking areas not screened by buildings that can easily viewed from roads or residential areas will have screening berms meeting the standards outlined in **Section 3.11** installed
- K. Pedestrian/Bike access for adjacent residential areas shall be provided.
- L. All buildings shall have a 6:12 pitch roof or greater
- M. As much as practical Commercial Mixed-Use builds should share common walls with adjacent buildings
- N. Siding on all Commercial Mixed-Use buildings shall be wood, stone or brick or a combination. Metal siding or concrete block is not allowed
- O. Storage Buildings (see **Section 8.13** for specific standards)



**Figure 5.07-6 – Dimensional Standards  
Commercial Mixed-Use Areas**



## Section 5.07.22 – Dimensional Standards – Commercial Mixed-Use Areas

All newly constructed commercial Mixed-Use Buildings shall meet or exceed the following setback requirements. (See Figure 5.07-6) Amended June 23, 2021

- A. Road Setback..... 25' from the Boyne City/Charlevoix Road right-of-way.
- B. Access Road Setback..... 0'
- C. Master Parcel Lot Line Setback..... 50' from any Master Parcel boundary.
- D. Residential Area Setback..... 50' from any residential lot.
- E. Maximum Building Height ..... 35'

## Section 5.07.23 – General Development Standards – Mixed Use District

### A. Overall Form

1. New construction shall be sited so as to best preserve natural vistas and the existing topography and to improve the view of and the view from buildings.
2. Peripheral greenbelt open space shall be designed to follow the natural features whenever possible and to maintain an agriculture, woodland or countryside character.
3. All utilities serving commercial structures shall be buried.
4. Developed areas shall be distinguished from the peripheral greenbelt open space by a well-defined line or edge so that they shall transition very quickly to rural undeveloped lands.

### B. Block Design Standards and Spatial Relationships

1. The transition between different land uses shall be designed in a manner to avoid distinct visual differences such as the scale of buildings.
2. The main green shall be designed on a pedestrian scale. Other smaller green/commons shall be not less than 4,000 sq. ft. in area. All greens/commons shall be planted with shade trees along their edges, at intervals between 20 and 40 feet.
3. Civic buildings are permitted in all areas. When possible, they shall be located adjacent to or fronting on village squares, greens/commons or at terminal vistas.
4. At least one main village green, shall be centrally located within the development. Other smaller greens/commons shall be laid out through the remainder of the development in a manner that no lots are greater than a 500-foot walking distance from at least one park.
5. Each block will be designed to include an alley serving rear parking areas or garages.
6. For traffic calming purposes, at least 25(%) percent of the streets will terminate in a manner that vehicles must come to a stop and either turn right or left. Except for collector streets, street lengths should be limited to not more than three (3) blocks or 1,500 feet, whichever is less.
7. Development will be designed in a continuous pattern of blocks and interconnecting streets and alleys defined by buildings, street furniture, landscaping, pedestrian ways and sidewalks.
8. Topography, existing vegetation, hydrology and design intentions will determine block shapes and sizes. However, the maximum length for a block is to be 500 feet, with an allowance for blocks up to 800 feet when mid-block footpaths are provided.

### C. Lot Design Standards

1. Lots fronting directly on greens/commons or parks shall be provided with green/commons fronting sidewalks. All lots shall front on a street or green. All lots shall access onto an alley or both an alley and street. Lots fronting directly on greens/commons or parks shall be provided with green/commons fronting sidewalks. (See Figure 5.07-7)
2. Single-family residential lots should be as narrow as possible to encourage pedestrian movement. To encourage diversity in buildings no more than two adjacent lots may be of the same street width (*townhouse lots are excluded from this provision*). Primary Single-Family Dwellings should be located off-

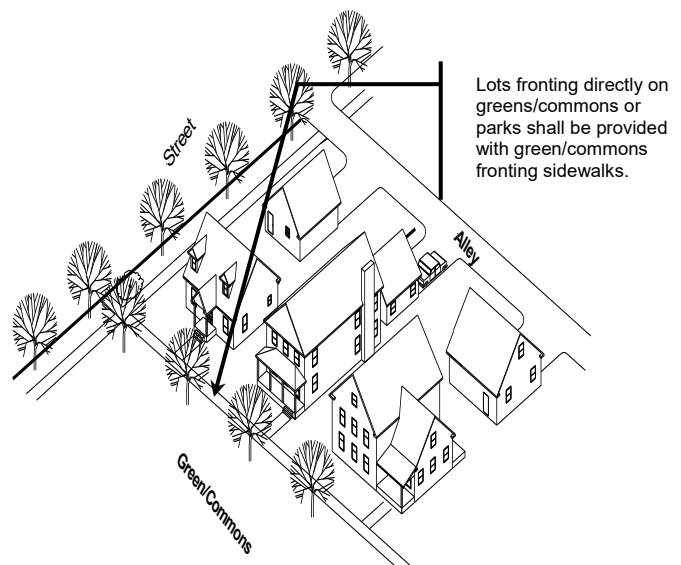


Figure 5.07-7

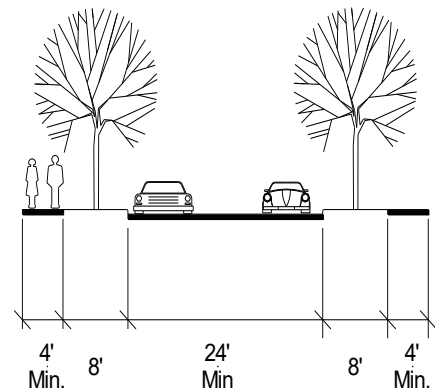
- center and to the front of the lot to maximize the usability of side yard and rear yard spaces.
3. Sidewalks and footpaths shall border at least one side of every lot.

#### D. Residential Design Standards

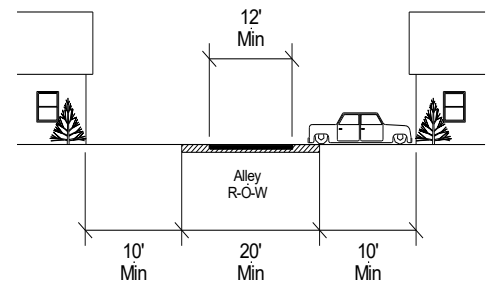
1. Apartments, duplexes and primary single-family residential dwellings shall be sited so they front directly onto streets or greens/commons (*rather than parking areas.*) Large porch areas are encouraged.
2. Rather than having a strict separation of residential building types, residential areas shall be designed so that there is a mixture of housing types within close proximity to each other.
3. Whenever possible, buildings housing more than one family shall be designed to resemble large single-family residences.
4. Brick and painted or stained wood clapboard siding is encouraged.
5. Housing styles, shapes and material shall be varied, within the overall theme of traditional village dwellings.
6. Accessory dwellings shall be architecturally integrated with the main dwelling.

#### E. Transportation System Design Standards

1. All public sidewalks and pathways shall:
  - a. Be handicap accessible;
  - b. Be no less than four (4) feet wide; and
  - c. Create a complete linked network of walkways connecting all uses with parks and other areas.
  - d. In residential areas sidewalks shall be separated from streets by "planting strips" a minimum of eight (8) feet wide, planted with shade trees
2. Street patterns shall form an interconnected network, with variations as needed for topographic, environmental and other design considerations.
3. Streets shall be designed to:
  - a. As much as practical preserve existing trees and other natural resources.
  - b. Minimize alteration of natural, cultural and historic site features;
  - c. Secure the view of prominent natural vistas;
  - d. Calm traffic speeds;
  - e. Promote pedestrian movement; and
  - f. Be aligned so that the "terminal vista" is of open space elements, either man-made (*greens or commons*) or natural (*meadows, large trees in distance*) or civic buildings or churches.
4. Except where street connections are blocked by natural features, all streets shall terminate at other streets or at public land.
5. Interior streets shall provide connections to separate existing or proposed through streets/collectors where possible, and shall provide easements to allow for future connections.
6. Streets, alleys, land and trails shall not be controlled by gates or other means, which restrict access to the public.
7. The maximum grade for any portion of a street or alley shall not exceed 7%.
8. All streets and alleys shall be paved.
9. The minimum right-of-way for streets shall be 50 feet and 20 feet for alleys.
10. The minimum paved width for streets shall be a minimum of 24 feet and 12 feet for alleys.
11. The minimum intersection angle for all streets and alleys shall be 45 degrees.



**Figure 5.07-8 – Street Dimensions**



**Figure 5.07-9 Alley Dimensions**

12. The developer shall plant a variety of species of deciduous shade trees on both sides of all existing or proposed streets (*both public and private*), as a condition for project approval. The Planning Commission may waive this requirement in areas where healthy trees a minimum of two (2) inches in diameter currently exist. New trees shall be a minimum of two (2) inches in diameter at chest height. They shall be planted at intervals no greater than 40 feet apart, on both sides of each street, including arterial roads, but not including rear alleys.
13. All shade tree species selected for planting shall have the following characteristics:
  - a. Be tolerant of pollution and direct or reflected heat;
  - b. Require little maintenance by being mechanically strong as well as being resistant to insects and disease.
  - c. Be able to survive without irrigation two (2) years after planting;
14. In residential areas shall normally survive more than 60 years and have a mature height of at least 50 feet.

**F. Storm-water Runoff Management System**

As a condition for approval the applicant shall provide official documentation indicating the storm-water run-off system as proposed meets the requirements of the Charlevoix County Storm Water Control Ordinance, and has been reviewed and approved by the Charlevoix County Soil Erosion Officer.

**G. Uses and Protection of Conservation Lands**

1. The remainder of the Master Parcel area shall be maintained as conservation lands.
2. All conservation lands shall be covered by a conservation easement prohibiting the splitting of these lands and limiting their uses to conservation areas, municipal services, agricultural, forestry, and non-commercial recreation activities. Buildings normally considered accessory to these types of uses are also allowed. This easement shall be held by two of the following Evangeline Township, a community property owner's association or by a locally recognized land conservancy.
3. Tree cutting on conservation lands will be limited to the removal of dead and dying trees or the minimum necessary to establish building site areas. Tree cutting on conservation lands is allowed based on an approved Forest Management Plan.

**Section 5.07.24 – Allowable Uses for Low-density Land Development**

The following uses are allowed by right in this district:

- A. Single-family dwellings
- B. Two-family dwellings
- C. Multiple-family dwellings
- D. Accessory dwelling unit (1), provided the property is owner occupied
- E. Residential dwellings above commercial uses
- F. Public parks and playgrounds
- G. Child or Adult daycare facilities serving six (6) or fewer clients
- H. Accessory buildings and uses customarily incidental to the above-permitted uses
- I. Nursing homes, assisted living facilities, convalescent homes, rest homes, public buildings, public schools, private schools, and places of worship.
- J. Low-impact commercial and recreational facilities, subject to the regulations of Section 8.18 (adopted February 1, 2011)

### **Section 5.07.25 – Allowable uses subject to Special Use Permit**

The following uses are allowed by special use permit, subject to provisions outlined in this Article and Articles VII and VIII

- E. A single Warehouse/Storage a maximum of 4 acres in area (including required screening and storm-water retention areas) is allowed on master parcels 20 acres or greater in area.
- F. Campgrounds on master parcels 20 acres or greater in area.

### **Section 5.07.26 – Developable Area**

All new structures on the Master Parcel shall be limited to areas where according to the Soil Survey of Charlevoix County:

- D. Slopes are less than 12%, and;
- E. The seasonal high-water table is greater than 3' below the soil surface.
- F. The remainder of the land shall consist of conservation lands, forestland, and recreation areas.

### **Section 5.07.27 – Maximum number of Curb Cuts allowed**

A single curb cut shall be allowed per Master Parcel onto the Boyne City/Charlevoix Road. A second curb cut is allowed for Master Parcels with over 1,000 feet of road frontage on the Boyne City/Charlevoix Road.

### **Section 5.07.28 – Maximum Number of Residential Dwellings**

One Dwelling Unit shall be allowed per full 2 acres of gross Master Parcel Area.

### **Section 5.07.29 - Single Family Residential Dimensional Standards**

- |    |                                  |   |
|----|----------------------------------|---|
| A. | Lot Depth                        | 100' min.   |
| B. | Lot Width                        | 100' min.   |
| C. | Street Front Setback .           | 30' min.  |
| D. | Boyne City/Charlevoix Rd Setback | 100' minimum from the road right-of-way                             |
| E. | Rear Yard Setback .              | 30' min.  |
| F. | Side Yard Setback .              | 10' min.  |
| G. | Primary Dwelling Height .        | 35' max.*   |
| H. | Accessory Building Height        | 25' max. or the height of the primary dwelling, whichever is less.* |

\*Chimneys are excluded from this height requirement

**Section 5.08.1 – Intent**

The intent in this district is to ensure that new development and redevelopment is compatible with the preservation of the woodlands, wetlands and steep slopes. Wetlands are beneficial as water retention areas, water filtration areas, buffering systems for other water bodies and groundwater recharge areas. It is further the purpose of this district to protect public infrastructure investment; control the density of housing so as not to over-burden the public infrastructure and services; and ensure the adequacy and serviceability of public and private roads.

**Section 5.08.2 – Allowable Buildings and Structures**

The following uses are allowed by right in this district

- A. Farms, including both general and specialized farming operations devoted to the production of food, feed and fiber
- B. Farm dwelling units and other farm dwellings
- C. Single-family detached non-farm dwelling units
- D. Noncommercial recreation facilities
- E. Forest Preserves and Conservation areas
- F. Game refuges
- G. Timber-cutting and Forest management practices
- H. Home occupations
- I. Accessory dwelling unit (1), provided the property is owner-occupied
- J. Building and other structures normally considered accessory or incidental to the above permitted uses
- K. Low impact commercial recreational facilities, subject to the regulations of Section 8.18 (adopted February 9, 2011)

**Section 5.08.3 – Allowable uses subject to Special Use Permit**

The following uses are allowed by special use permit, subject to Article 8, Supplemental Site Development Standards

- A. Campgrounds
- B. Cottage Industries
- C. Kennels
- D. Temporary sawmills and other mills
- E. Riding stables
- F. Veterinary clinic and Hospital
- G. Nursing homes, assisted living facilities, convalescent homes, rest homes, public buildings, public schools, private schools, and their local supporting service uses, and places of worship. (amended: August 4, 2009)
- H. Event Centers (adopted July 20, 2019)

**Section 5.08.4 – Specific Development Standards**

- A. Road Frontage:
  - 1. For lots that abut a public road, the frontage on the public road shall be no less than 500 ft.
  - 2. Reserved
  - 3. For any lot that abuts a private road or common driveway, and does not abut a public road, the frontage on the private road or common driveway shall be no less than 20 feet.

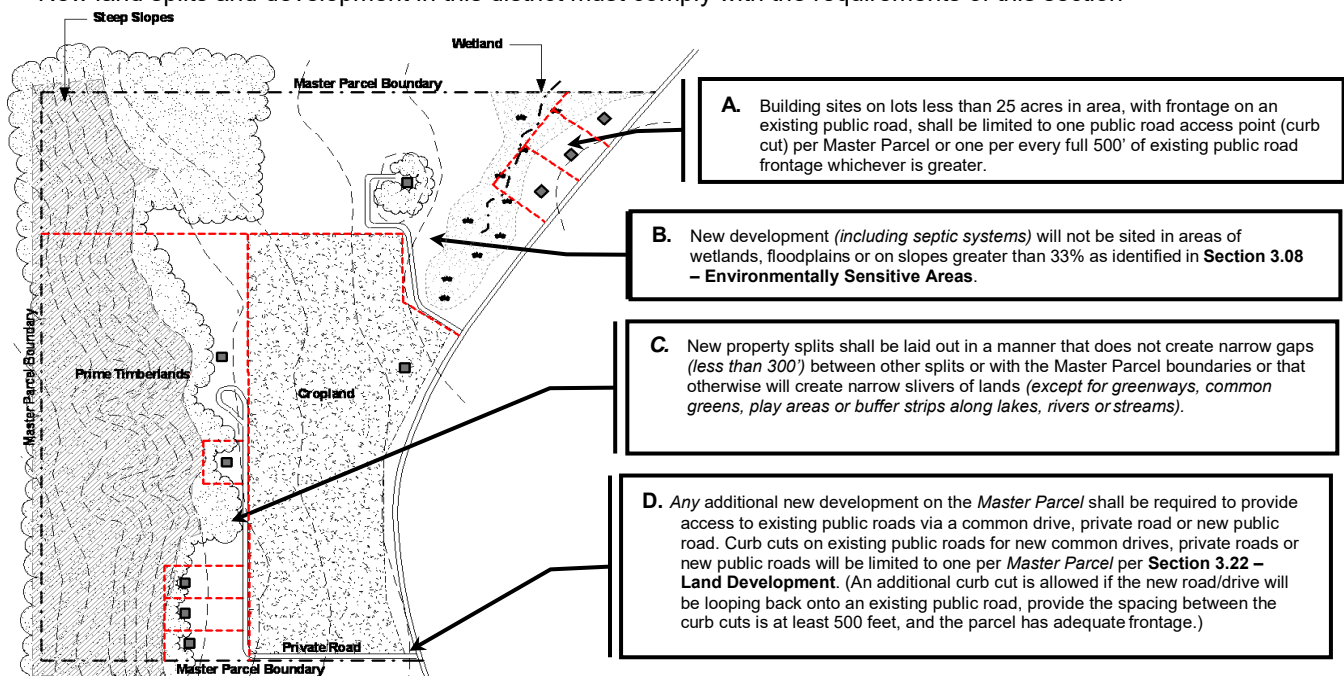
- B. Lot Width: Varies; see Section 5.11 – Schedule of Regulations
- C. Lot Depth: Varies; see Section 5.08.6 – General Development Standards
- D. Road Setback: 50' from the road right-of-way
- E. Rear Yard Setback: 50' minimum
- F. Side Yard Setback: 20' minimum
- G. Waterfront Setback: 100' minimum
- H. Primary Dwelling Building Height
  - 1. For primary dwellings without walkout basements, the building height shall be no more than 35 feet, or two stories, whichever is less.
  - 2. For primary dwellings with walkout basements, the building height shall be no more than 43 feet.
- I. Accessory Building Height
  - 1. Except as provided in this subsection, the building height of an accessory building shall be no more than 25 feet, or the height of the primary dwelling, whichever is less.
  - 2. The building height of a farm building, as defined in this Ordinance, shall be no more than 100 feet; provided, however, that any farm building with a building height greater than 35 feet shall be located on the lot no less than 150 feet from any property line.  
(effective: June 14, 2012)

### Section 5.08.5 – Other Standards

- A. **Non-Conforming Structures:** The spatial dimensions of existing buildings that encroach on the waterfront, side yard and road setbacks or exceed the maximum allowable impervious surface standards of this district shall not be further expanded.
- B. **Future Lot Splits:** Future lots may only be made in a manner where all lots created will conform with all of the development standards of this District.
- C. **Wetland Soils:** Building envelopes shall be located in areas mapped as non-hydric (non-wetland) in the Charlevoix County Soil Survey. See **Section 3.08 – Environmentally Sensitive Areas**.

### Section 5.08.6 – General Development Standards

New land splits and development in this district must comply with the requirements of this section



**E.** New building and other structures will be set back a minimum of:

1. 100' from any lake, river or stream;
2. 25' from *Wetland*;
3. 50' from the right-of-way of any existing public road where building sites access these roads directly;
4. 50' (*or the height of the structure, whichever is greater*) from any original *Master Parcel* exterior boundary;
5. 20' (*or the height of the structure, whichever is greater*) from any newly created lot lines on the *Master Parcel*
6. 250' from any existing public road for sites not accessing those roads directly.\*
7. All new buildings and other structures shall be a maximum height of 35', except for residential structures with walkout basements (see **Section 5.08.4 – Specific Development Standards**) and farm buildings (see *Schedule of Regulations*).
8. Maximum Impervious surface coverage will not exceed 20% of the total area of any parcel.

*\*In the case where strict compliance would cause building sites to encroach on wetlands, floodplains or areas of steep slopes, the Planning Commission may reduce this setback requirement by the minimum necessary to avoid encroachment, with the resulting setback not to be less than 100' and shall be screened from the road by existing vegetation or a planted landscape buffer.*

**F.** Construction on lots hereafter created that are located on forested ridgelines shall be limited to those areas that are at the time of construction covered with pole or sawlog size timber stocked at a minimum density of 60 sq. ft. of Basal Area per acre. Construction on lots hereafter created, that are located on previously forested ridgeline areas, which have been cleared to less than the specified level, can only occur on after the area is covered with pole or sawlog size timber stocked at a minimum density of 60 sq. ft. of Basil Area per acre. Clearing and grading of a site shall be the minimum area to accommodate the proposed buildings or structures. Selective trimming of trees is permitted for “filtered views” such as pictured in Figure 5.08-1. Clear cutting of view corridors is prohibited.

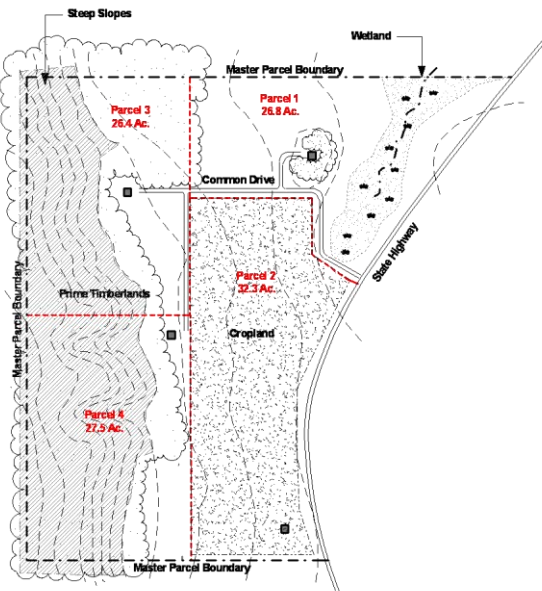


**Figure 5.08-1**

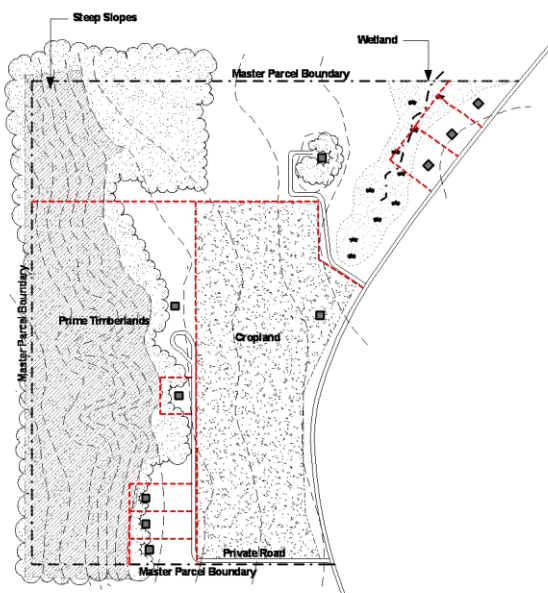


## Section 5.08.7 – Land Development Options

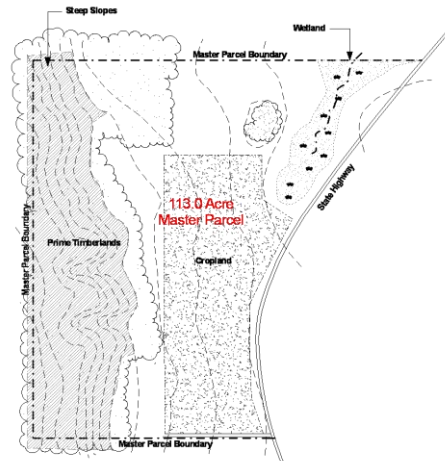
Applicants may split **Master Parcels** into new properties according to **Section 5.08.6 – General Development Standards** and according to one (*applicant's choice*) of the following three (3) development options.



**Country Properties Option**



**Family Properties Option**



**Existing Master Parcel**

### A. Option 1 – Country Properties Option

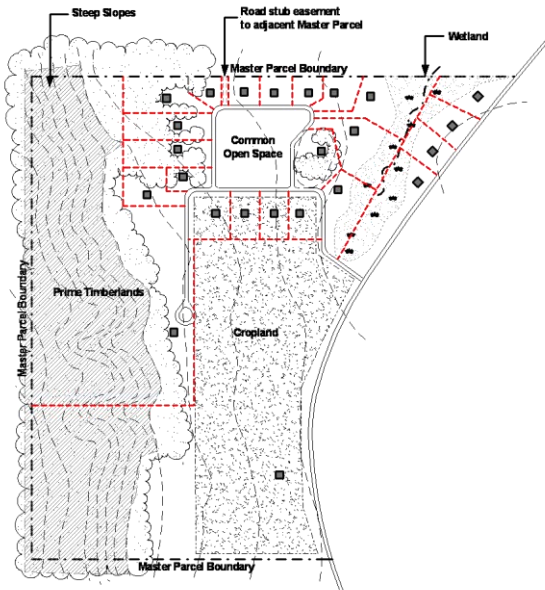
Under this option a *Master Parcel* may be divided into parcels a minimum of 30 acres in area (*25 acres if the depth to width ratio on new splits is 2.5: 1 or less.*)

### B. Option 2 – Family Properties Option

Under this option a few small lots (*each a maximum of 3 acres in area*) may be created from the *Master Parcel* according to the following sliding scale. (Master Parcels under 13 acres in area are not subject to the 3-acre maximum provision above.) (amended November 5, 2019)

<i>Master Parcel Acreage</i>	<i># Small Lots 0-</i>
12.99 acres .....	1
13.00-20 acres .....	1
20.01-30 acres .....	2
30.01-40 acres .....	3
40.01-50 acres .....	4
50.01-60 acres .....	5
60.01-70 acres .....	6
>70 acres .....	7

Where sufficient area allows, the remainder of the *Master Parcel* may be divided into parcels a minimum of 30 acres in area (*25 acres if the depth to width ratio on the parcel is 2.5:1 or less.*)



**Conservation Design Option**

### **C. Option 3 – Conservation Design Option**

An area equivalent to 50% of the Master Parcel's Buildable Net Acreage (or 35% of the Master Parcel's total acreage, whichever is greater) may be divided into small lots. The Master Parcel's Buildable Net Acreage is the total acreage of the Master Parcel less any acreage associated with regulated wetlands or steep slopes areas (25% or greater).

The maximum density of small lots in this/these areas shall be one lot for every 5 full acres of Master Parcel acreage (e.g. a 40-acre Master parcel could have a maximum of 8 small lots).

The remainder of the Master Parcel will remain as Conservation Lands, including Dedicated Conservation Lands and Common Open Space.

**Ownership of Conservation Lands:** A minimum of 20% of the Conservation Lands shall be Common Open Space under the ownership of a Homeowners Association. This Association is made up of all of the owners of small lots created from the Master Parcel. The remainder of the Conservation Lands shall be referred to as Dedicated Conservation Lands, which shall be protected by a permanent conservation easement or similar legal instrument.

### **Section 5.08.8 – Allowable Uses of Dedicated Conservation Lands:**

Subject to the conservation easement requirements outlined below in Section 5.08.9 Conservation Lands may be used for any purpose allowed under the Allowable Uses section of this Ordinance.

### **Section 5.08.9 – Protection and Division of Dedicated Conservation Lands**

All Dedicated Conservation Lands will be permanently protected by a Conservation Easement, which will prohibit the further splitting of these lands into individual parcels less than 30 acres in area. This easement also shall not allow more than one (1) principle and one (1) accessory dwelling on any individual parcel of Dedicated Conservation Lands. This easement will be held by two (2) of the following: a recognized local land conservancy, Evangeline Township, Homeowners Association or other appropriate method or entity as found acceptable to the Township.

### **Section 5.08.10 – Siting Criteria for New Development Under the Conservation Design Option**

In addition to the General Development Standards of this District, as much as practical, new Building Sites and Lots developed under this option will be sited in a manner which: (listed in order of priority)

- A.** Preserves and maintains, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses. When new development must be located in these areas due to greater constraints in all other parts of the site, buildings should be sited on the least prime, important or unique farm and forestland soils.
- B.** Minimizes impacts on large woodlands (greater than five (5) acres), especially those located on upland soils considered prime for timber production.

- C. Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from adjacent public roads and waterways.
- D. Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features or by siting it in existing forested areas.
- E. Allows minimum of 60 (%) percent of the new lots created to front onto single loaded roads and a minimum of 80 (%) percent of the new lots created to be adjacent to permanently protected open space.
- F. Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern.
- G. Designs around and preserves sites of historic, archaeological, or cultural value, insofar as needed to safeguard the character of the feature.
- H. Allows Common Open Space lands to be located in a manner that offers convenient access

#### **Section 5.08.11 – Property Transfers Between Master Parcels**

Property transfers between adjacent legally created Master Parcels, that have not been previous split (*according to the provisions of Section 5.08.6 or of previous ordinances*), is allowed, provided that both reconstituted Master Parcels shall be of a size and configuration conforming to the building requirements of this Ordinance.

#### **Section 5.08.12 – Application, Site Plan Review and Approval Process**

All applications for property splits shall be reviewed and approved by the Planning Commission (the Planning Commission may delegate this authority for property split under the Country Properties and Family Properties Options to the Planner/Zoning Administrator.) Before an application for a property split under the Conservation Design will be accepted, a pre-application conference will be held to discuss the applicant's objectives and how these may be achieved under the Ordinance. Participants in this conference will include the applicant, the site designer and the planning commission, or its designated agent. The applicant may prepare a conceptual plan for this session; **however, no engineered site plans or surveys will be accepted at the pre-application conference.** If necessary a site visit may be scheduled at this conference.

After the pre-application conference (and site visit if needed) applicants developing properties under the Open Space Option shall submit nine (9) copies of a proposed site plan, drawn to scale, in accordance with Article VI.

## Section 5.09 – Recreation/Community Service District (R/CS)

Evangeline Township

R/CS

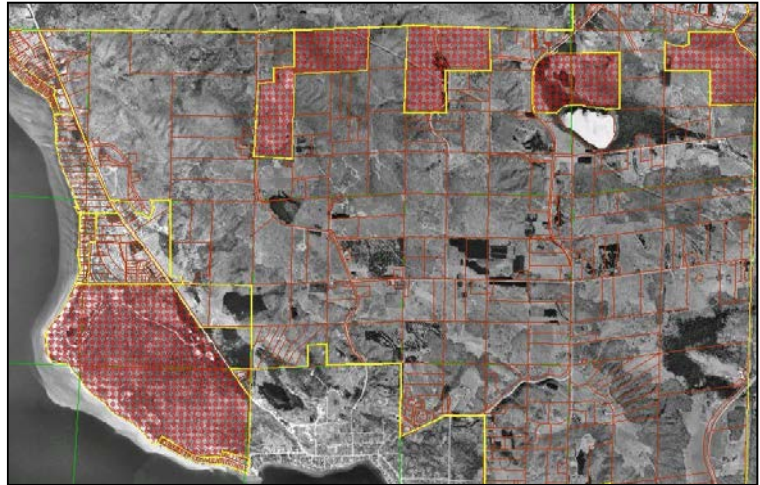
### Section 5.09.1 – Intent

The intent of this district is to promote the proper use, enjoyment and conservation of public and quasi-public resources in the township primarily for recreation and conservation purposes.

### Section 5.09.2 – Allowable Use

The following uses are allowed by right in this district:

- A. Public or noncommercial private parks and recreation areas, including docks and boat landings, pathways, and camping sites
- B. Natural Open Space such as conservation lands, wetlands, steep slopes, wildlife sanctuaries, woodlands and forest preserves
- C. Agriculture, including both general and specialized farming, tree farms and forestry



Recreation/Community Service District

### Section 5.09.3 – Allowable Uses Subject to Special Use Permit

Other public or quasi-public uses not specifically stated or implied elsewhere which, in the determination of the Planning Commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the District and intent of this Article and the Land Use Plan of the Township.

### Section 5.09.4 – General Development Standards

- A. Screening shall be required and maintained for any use that is located adjacent to a residential district, a residential use or an agricultural use, unless specifically waived by the planning commission
- B. Maximum of 15% of the area within 500' of the lake may be covered with impervious surfaces
- C. Parking requirements shall be based on the specific use proposed, per **Section 3.12 – Vehicular Parking Space and Access**

### Section 5.09.5 – Specific Development Standards

- A. **Parcel size**..... 20 acres
- B. **Lot Width/Road frontage** ..... 100' min.
- C. **Road (Front Yard) Setback**..... 25' min.
- D. **Rear Yard Setback** ..... 10' min.
- E. **Side Yard Setback**..... 10' min.
- F. **Building Height**..... 30' max. with a maximum of two (2) stories, except as allowed in the Schedule of Regulations\* (amended: August 4, 2009)

## **Section 5.09.6 – Other Standards**

### **A. Non-Conforming Structures**

The spatial dimensions of existing buildings that encroach on the waterfront, side yard and road setbacks or exceed the maximum allowable impervious surface standards of this district will not be further expanded.

### **B. Future Lot Splits**

Future lots may only be made in a manner where all lots created will conform with all of the development standards of this district.



## Section 5.10 – Industrial District (I)

## Evangeline Township

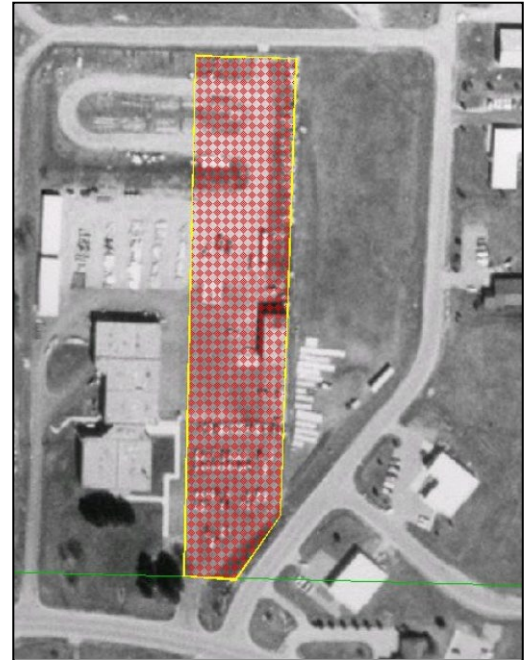
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### Section 5.10.1 – Intent

The intent of this district is to provide for a variety of industrial and limited commercial uses in an area with direct access to all-weather highways, adequate storm drainage and existing power, water, and waste water disposal. Such industrial areas should be free of incompatible uses designed so as not to harm adjacent conforming uses, and provided with adequate land for expansion. Since such property is limited in availability, it will be conserved and restricted for use for industrial purposes in the interest of the community's economic growth and development.

### Section 5.10.2 – Allowable Uses Subject to Special Use Permit

- A. Assembly, fabrication, manufacture, packaging or treatment of food products (excluding butchering and animal slaughtering), candy, pharmaceuticals, drugs, cosmetics and toiletries, hardware and cutlery, musical instruments, optical goods, toys, novelties, electrical instruments and appliances, electronic instruments and devices, electronic consumer products, and pottery and figurines or other ceramic products using only previously pulverized clay and kilns fired only by electricity or natural gas, apparel and leather goods
- B. textile goods, and furniture and fixtures
- C. Assembly, fabrication, manufacture or treatment of such products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fiber, glass, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shell textiles, wax, wire, wood (excluding power saw and planing mills) and yarns
- D. Boat manufacturing and repair
- E. Machine shops, provided that no vibration from the operation shall be perceptible beyond the lot lines of the property on which the shop is located
- F. Wireless communication facilities and Telecommunication Towers
- G. Tool and die shops, metal working machine shops involving the use of grinding or cutting tools, manufacturing of tools, dies, jigs and fixtures, publishing, printing or forming of box, carton and cardboard products, bookbinding, printing, publishing, reproduction, or engraving establishments
- H. Industrial printing
- I. Wholesale distribution plants
- J. Laboratories for research and testing
- K. Breweries, distilleries, wineries, bottling works, and micro-breweries
- L. Canning factories and chemical plants
- M. Electroplating
- N. Heat treating
- O. Metal plating, stamping, pressing, casting, buffing and polishing, subject to appropriate measures to prevent obnoxious results and/or nuisances
- P. Millwork lumber and power saw and planing mills
- Q. Dry cleaning plants (central) and industrial laundries
- R. Ice manufacturing and storage, including cold storage plants
- S. Bakeries, wholesale
- T. Outside storage of materials
- U. Power plants or central stations
- V. Steel fabrication
- W. Carpentry and/or woodworking, open storage of lumber
- X. Sexually Oriented Businesses as defined



**Industrial District**

- Y. Other industrial uses not specifically stated or implied elsewhere which, in the determination of the Planning Commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the District and the purpose and intent of this Article and the Comprehensive Plan

### **Section 5.10.3 – Accessory uses, including but not limited to:**

- A. Amusement: bowling alley, swimming pool, baseball park, etc. for the use of employees and guests, not for use by the general public
- B. Service: restaurant, cafeteria, barber, shoe-shine parlor, newsstand, motel not for use by the general public
- C. Lodges and labor organization headquarters, offices and meeting halls
- D. Residential uses containing only quarters for caretaker or watchman

### **Section 5.10.4 – General Development Standards**

- A. Screening shall be required when an industrial or commercial use is located adjacent to a residential use or non-commercial district.
- B. Maximum of 40% of the lot may be covered by buildings.
- C. Parking requirements based on use (see standards in **Section 3.12**)
- D. Compliance with other applicable standards of the Boyne City Industrial Park.

### **5.10.5 Specific Development Standard**

- A. **Parcel size**..... 20,000 SF min.
- B. **Lot Width/Road frontage** ..... 100' min.
- C. **Road (Front Yard) Setback** ..... 50' min.
- D. **Rear Yard Setback** ..... 25' min.
- E. **Side Yard Setback** ..... 25' min.
- F. **Building Height** ..... 35' max. with a maximum of two and one-half stories\*

*\* Height restrictions in this article do not apply to Telecommunication Towers and Alternative Tower Structures located in accordance with this ordinance.*

### **Section 5.10.6 – Other Standards**

- A. Non-Conforming Structures
  - 1. The spatial dimensions of existing buildings that encroach on the waterfront, side yard and road setbacks or exceed the maximum allowable impervious surface standards of this district will not be further expanded.
  - 2. Any existing structure may be replaced for any reason provided the replacement structure does not exceed the spatial envelope of the original structure, the structure does not encroach on the required greenbelt and the maximum impervious surfaces standards are not exceeded.
- B. Future lots may only be made in a manner where all lots created will conform with all of the development standards of this district.

## Section 5.11 – Schedule of Regulations

### Section 5.11.1 – Waterfront Districts

Zoning District	District Name	Minimum Width		Maximum Height of Structure		Minimum Yard Setbacks			Road front setback	Maximum Imperviousness (see foot notes (d) and (e) for exceptions.)	
		Water Frontage	Road Frontage	Stories	Feet	Water-front	Side	Rear			
GB	Glenwood Beach Waterfront lots	50 ft.	50 ft.	2	30	50 ft. (a)	10 ft.	---	25 ft. (b)	15% (Or 2,500 sf whichever is greater.)	
	Back lots	---	100 ft. lot width	2	30	---	10 ft.	20 ft.	50 ft.	15% (Or 2,500 sf whichever is greater.)	
P	Pinehurst Shores	100 ft.	60 ft.	2	30 (c)	50 ft. (a)	10 ft.	---	20 ft.	25% (Or 3,000 sf whichever is greater. No more than 15% of the lot area within 500' of the waterfront may be impervious surface.)	
K	Kriegerville	100 ft.	75 ft.	2	30 (c)	50 ft. (a)	Kriegerville Side Yard		---	50 ft. on BC-Char Road 20 ft. on Others	15% (No more than 15% of the lot area within 500' of the waterfront may be impervious surface.)
							At Least One	Total of Two			
							10 ft.	25 ft.			
SWB	Springwater Beach Waterfront lots	50 ft.	40 ft.	2	30	50 ft. (a)	10 ft.	---	25 ft. (f)	15% (Or 2,500 sf whichever is greater.)	
	Back Lot Overlay Dist	---	50 ft. lot width	2	30	---	10 ft.	20 ft.	50 ft. on Springwater 20 ft. on Terrace	15% (Or 2,500 sf whichever is greater.)	
W	Walloon Lake	100 ft.	75 ft.	2	30 (c)	50 ft. (a)	Walloon Side Yards			20 ft. 50 ft. on Shadow Trails	15% (Or 3,000 sf whichever is greater. No more than 15% of the lot area within 200' of the waterfront may be impervious surface.)
							At Least One	Total of Two			
							10 ft.	25 ft.			



#### Footnotes

- (a) Waterfront setback shall be increased based on existing slope, 100 ft. setback for areas identified on the Evangeline Township Shoreline Steep Slopes map in Section 3.07.
- (b) Road setback is reduced to 18 ft. from edge of pavement for lots less than 150 ft. in width.
- (c) Height may be increased to 35 ft. and/or 2.5 stories, if the roof pitch is 8/12 or greater, and the lot is greater than 100 ft. wide.
- (d) The maximum imperviousness may be increased to 3,125 square feet provided that the depth of the required natural vegetation buffer strip is increased to twice the depth required by Section 3.06.
- (e) The maximum imperviousness may be increased from 15% to 20% provided both of the following conditions are met: first, that the depth of the natural vegetation waterfront buffer strip is increased to twice the depth required by Section 3.06 ; second, that the waterfront setback for all structures, existing and proposed, is increased to twice the distance required by the Zoning District, as modified by Section 3.07, and all other setbacks are met without the need for a variance.
- (f) Measured from lot line, except that for lots less than 150 ft. wide this setback shall be reduced to 18 ft. min. from the front lot line.

## Section 5.11.2 – Non-Waterfront Districts

Zoning District	District Name	Minimum Lot Area	Minimum Width	Maximum Height of Structure		Minimum Yard Setbacks			Road front setback	Max % of Impervious Lot Coverage
			Road Frontage	Stories	Feet	Front	Side	Rear		
<b>R-1</b>	<b>General Residential</b>	14,000 sf	100 ft.	2	30 ft. (f)	25 ft.	10 ft.	20 ft.	25 ft. 50 ft. from the Boyne City-Charlevoix Road	The greater of 20% or 2,500 square feet
<b>MU</b>	<b>Mixed Use</b>	(g)	(g)	(g)	(g)	(g)	(g)	(g)	(g)	(g)
<b>RRF</b>	<b>Rural Residential/ Farm/Forest</b>	---	500 ft. (b)	2	35 ft. (c) 43 ft. (d)	50 ft. (100 ft. waterfront)	20 ft.	50 ft.	50 ft. From right-of-way	20%
<b>R/CS</b>	<b>Recreation/ Community Service</b>	20 acres	100 ft.	2	30 ft. (e) (f)	25 ft.	10 ft.	10 ft.	---	---
<b>I</b>	<b>Industrial</b>	20,000 sf	100 ft.	2.5	35 ft. (e)	50 ft.	25 ft.	25 ft.	---	Max. 40% covered by buildings

### Footnotes

- (a) Reserved.
- (b) Frontage requirements on a private road or common drive shall be 20 ft. where lots do not abut a public road directly.
- (c) Maximum height is increased to 43 ft. for residential dwelling structures with walkout basements.
- (d) Maximum height for farm buildings is 100 ft., structures over 35 ft. height shall be set back at least twice the height of the building.
- (e) Height restrictions do not apply to telecommunication towers and alternative tower structures located in accordance with this ordinance.
- (f) Height may be increased to 35ft. and/or 2.5 stories, if the roof pitch is 8/12 or greater, and the lot is greater than 100 ft. wide.
- (g) Varies. See district regulations.

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## Article VI Site Plan Review

### Section 6.01 – Plot Plan

All applications for Zoning Permits, which do not require a site plan, shall be accompanied by plans and specifications including a Plot Plan, drawn to scale, showing the following:

- A. The shape, location and dimensions of the lot, drawn to scale. The scale shall be of such size that the Zoning Administrator deems adequate to make a judgment that the application meets the requirements of this Ordinance. When necessary, a survey may be required by the Zoning Administrator. Sealed plans are required for any residential building over 3500 square feet and all non-residential buildings.
- B. The location, shape and size of all buildings or other structures to be erected, altered or moved onto the lot and of any building or other structure already on the lot, drawn to scale. In addition, an elevation drawing of the proposed building(s) may be required by the Zoning Administrator in order to determine the height of the proposed structures.
- C. The location and configuration of the lot access and driveway, drawn to scale.
- D. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- E. Other information concerning the lot or adjoining lots that may be essential for determining whether the provisions of this Ordinance are being observed.

### Section 6.02 – Site Plan Review (All Districts)

Required site plans give the Planning Commission an opportunity to review development proposals in a concise and consistent manner. The use of the site plan ensures that the physical changes in the property meet with local approval and that development actually occurs as it was planned and represented by the developer.

- A. **Pre-application Conference:** An applicant may request to be placed on the agenda of a meeting of the Planning Commission to review and discuss a proposed site plan prior to a formal site plan application being filed. At this pre-application conference the Planning Commission may conduct a conceptual review of the proposed project and may modify the site plan requirements of this section as provided herein. The Planning Commission may waive specific site plan data requirements contained in Section 6.02.C if it finds that the requirement being waived is not applicable to the proposed development. In addition, the Planning Commission may require additional data not specified in Section 6.02.C if it finds that such additional information is necessary to determine whether the proposed development satisfies the standards for site plan approval contained in Section 6.02.D. In no case shall any representations made by the Planning Commission at the pre-application conference be construed as an endorsement or approval of the proposed site plan. (effective April 21, 2010)
- B. **Circumstances Requiring a Site Plan:** Site plans are required for the following uses:
  - 1. Except as provided herein, all new uses, including single-family and two-family dwellings located on a waterfront lot. Except as provided herein, single-family and two-family dwellings located on a non-waterfront lot shall not require site plan review. (adopted February 1, 2011)
  - 2. Except as provided herein, expansion or renovation of an existing use, including single-family and two-family dwellings located on a waterfront lot. Except as provided herein, the

expansion or renovation of single-family and two-family dwellings located on a non-waterfront lot shall not require site plan review. (adopted February 1, 2011)

3. Changes of use for an existing structure or lot.
4. Any use requiring a special use permit.
5. Construction on Steep Slopes
6. Any use requiring off-street parking, for five (5) or more vehicles, as stated in the off-street parking schedule of this Ordinance.
7. Any parcel(s) developed pursuant to P.A. 59 of 1978, the Condominium Act, as amended.
8. Other uses as required by this Ordinance.
9. A preexisting conforming single-family or two-family dwelling located on a waterfront lot may obtain a zoning permit for an addition without site plan review provided all of the following criteria are met without a variance:
  - a. The proposed construction is less than two hundred (200) square feet.
  - b. The proposed construction is upland from the waterfront edge of the existing construction.
  - c. A greenbelt meeting the specifications of Section 3.06.B is already in place.
  - d. Both the existing and proposed construction meet all standards for height, setback, and impervious surface coverage for the zoning district.
  - e. The structure has not previously obtained a zoning permit under the provision of this subsection. (effective: June 14, 2012)

**C. Site Plan Data Required:** Each site plan submitted shall contain the following information unless specifically waived, in whole or in part by the Planning Commission or Zoning Administrator. The Planning Commission or Zoning Administrator can waive any or all of the below site plan requirements when it finds those requirements are not applicable to the proposed development.

1. The name and address of the property owner.
2. A vicinity map showing the site location in relation to the surrounding area, which also identifies the current land uses of the site and adjacent properties.
3. The date, north arrow, scale and name of the individual or firm responsible for preparing said plan. The scale must be at least one (1) inch = fifty (50) feet for parcels under three (3) acres and not less than one (1) inch = one hundred (100) feet for parcels three (3) acres or more.
4. A certified survey of the property prepared and sealed by a professional licensed surveyor, showing at a minimum the boundary lines of the property, to include all dimensions and legal description.
5. The location of all existing structures and all proposed uses or structures on the site, including proposed drives, walkways, docks, signs, exterior lighting, adequate parking for the proposed uses (show the dimensions of a typical parking stall and parking lot), loading and unloading areas, if necessary, common use areas and recreational areas and facilities. An elevation drawing of the proposed building(s) shall be required in order to review the proposed building bulk and verify height.
6. The location and width of all abutting rights-of-way, easements and utility lines within or bordering the subject project.
7. The location of existing environmental features, such as watercourses, wetlands, shorelines, man-made drains, areas with slopes of twelve (12%) percent or greater, mature specimen trees, wooded areas, scenic view sheds or any other unusual environmental features.
8. The location and identification of all existing structures, lighting, signs, ingress and egress drives, roads, and parking within a two hundred (200) foot radius of the site, including road names.
9. The existing zoning district in which the site is located and the zoning of adjacent parcels. In the case of a request for a zoning change, the proposed new district must be shown.
10. The location of all existing and proposed landscaping as well as all existing and proposed fences or walls.
11. The location, size and slope of all surface and subsurface drainage facilities.

12. Summary tables, cross-sections and/or floor plans shall be included with site plans for proposed structures, giving the following information:
  - a. The number of units proposed, by type, including a typical floor plan for each unit.
  - b. The area of the proposed units in square feet, as well as area dimensions of driveways and staging areas.
  - c. Typical elevation drawings of the front and rear of each building.
13. The topography of the existing and finished site shall be shown by contours where the existing slope on any part of the site is twelve percent (12%) or greater, and all areas located within five hundred feet (500') of a body of water shall be shown at contour intervals of two (2') feet or less.
14. Generalized soil analysis data, which may include data prepared by the Charlevoix Conservation District regarding the soils and their adaptability to the proposed use. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of soils.
15. All site plans shall comply with part 91 of Public Act 451 of 1994 as amended, and any applicable local Soil Erosion Sedimentation and/or Stormwater Runoff Control Ordinances, with documentation of approval to be provided by the applicant.
16. Anticipated hours of operation for proposed use. The Planning Commission may impose reasonable limits to hours of operation as a condition of site plan approval when warranted to assure compatibility with surrounding land uses.
17. Impact Statement  
The statement shall address the following, as applicable, regarding the type of use:
  - a. A complete description of the proposed development including: areas of the site, the number of lots or units; and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, income, and related characteristics, as applicable.
  - b. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to ground water reserves or community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.
  - c. Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

**D. Site Plan Review Standards:** In the process of reviewing the Site Plan, the Township Planning Commission shall consider:

1. The location and design of driveways and entrance features with respect to vehicular and pedestrian traffic. Access location and rights to the proposed development must be confirmed prior to final action on a plan, including permits from the Charlevoix County Road Commission or Michigan Department of Transportation, and/or proof of the right to access a property in the form of a deed or easement stating such access is acceptable.
2. The arrangement of uses on the property, including the orientation of buildings, parking areas, and open spaces, and the visual exposure of waste storage facilities, loading docks and service doors so as to promote public safety, protect land values, and carry out the spirit and intent of the Zoning Ordinance.
3. The traffic circulation plan and off-street parking with respect to public safety, on-site uses and adjacent properties.
4. Buffers, screens, fences, walls, greenbelts, and landscaping may be required by the Planning Commission in pursuance of the objectives of this Section and/or as a condition of site plan approval.

5. Methods proposed to prevent or minimize damage to sensitive or critical environmental areas. If the area is in a State regulated wetlands, permits to build in those areas will be needed prior to final action on a site plan.
6. Spaces, rights-of-way, easements, and related site plan elements needed to serve the proposed use or development for such services as fire protection, sanitary sewers, water supplies, solid waste, storm drainage systems, and other related services. The Planning Commission may require Fire Department and Northwest Michigan Community Health Agency approval of the plan prior to final Planning Commission approval.

**E. Submittal and Approval Procedures:**

1. Nine (9) copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator's office by the petitioner or property owner or his designated agent at least forty five (45) days prior to the Planning Commission meeting at which the site plan will be considered. Upon filing of an application with the Township, the Zoning Administrator shall review the application to determine if all of the required information has been provided. Once the application is deemed administratively complete, then and only then shall it be forwarded to the Planning Commission for review. If an application is not complete, the Zoning Administrator shall send a letter to the applicant detailing the deficiencies. The Zoning Administrator shall cause the submittal to be placed on the Planning Commission's meeting agenda within forty five (45) days from the date a complete application has been filed with the Township.
2. The Zoning Administrator shall forward one (1) copy of the application and site plan to local, county and state agencies for review at his or her discretion.
3. The Planning Commission shall have the responsibility and authorization to approve, disapprove or approve with modifications, the Site Plan in accordance with requirements of the zoning district in which the proposed use is located and shall further consider the following criteria:
  - a. The sewage disposal and water systems shall meet the applicable health and sanitary codes and ordinances.
  - b. The location and nature of the use shall not be in conflict with any principal permitted use of the district or neighborhood.
  - c. The use shall not create any significant traffic problem or hazard.
  - d. The arrangement of public roads or streets for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area.
  - e. All private roads shall be developed in accordance with the Evangeline Township Private Road Ordinance. All public roads shall be developed in accordance with the Charlevoix County Road Commission specifications.
  - f. The use shall not be any more objectionable to adjacent and nearby properties than would be any permitted principal use of the district by reason of traffic, noise, vibration, dust, fumes, smoke, odor, fire hazard, glare, flashing lights, or disposal of waste and sewage.
  - g. The use shall not discourage or hinder the appropriate development and use of adjacent premises and the neighborhood.
  - h. The site plan is consistent with and meets the requirements of the Evangeline Township Land Use Plan.
  - i. The site plan shall conform to all applicable requirements of Township, County, State and Federal statutes.
4. Any conditions or modifications desired by the Planning Commission shall be recorded in the minutes of the appropriate Planning Commission meeting, including but not limited to the applicant receiving all applicable permits and filing a copy of each with the Zoning Administrator prior to issuance of the Zoning Permit. No development or earth moving shall occur on the property pursuant to the approved site plan, prior to zoning permit issuance.

5. A Certified Boundary Survey shall be recorded with the Register of Deeds within 60 days of the issuance of a Certificate of Occupancy, or at the request of the Zoning Administrator, and the Zoning Administrator shall be notified of the Liber and Page number.

**F. Site Plan Amendments:** Amendments to an approved site plan shall be permitted only under the following circumstances:

1. The owner of property for which a site plan has been approved shall notify the Zoning Administrator of any desired change to the approved site plan. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - a. Reduction of the size of any building and/or sign.
  - b. Movement of buildings and/or signs by no more than ten (10) feet.
  - c. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
  - d. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the development or increase the amount of required parking.
  - e. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  - f. Changes related to items 1 through 5 above, required or requested by the Township, the County, or other State or Federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
2. All amendments to a site plan approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare and submit a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
3. An amendment to an approved site plan that cannot be processed by the Zoning Administrator under subsection A above shall be processed in the same manner as the original site plan application.

**G. Approved Site Plan Validity:**

1. An approved Site Plan or site plan amendment shall be valid for issuance of a zoning permit up to 365 days from the date the Planning Commission approved or conditionally approved the plan.
2. Failure to initiate substantial construction of an approved site plan within 365 days of the approval shall result in the revocation of the site plan approval and associated zoning permit.
3. Thirty days prior to the expiration of the approved site plan an applicant may apply for a one (1) year extension. A maximum of a single one (1) year extension may be granted. The applicant shall provide explanation of the situation and reasons why the extension should be granted.
4. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The Charlevoix County Department of Building Safety shall also be notified to withhold or revoke any building permit until a new site plan is approved.
5. Any subsequent re-submittal shall be processed as a new request and new fees shall be required.

**H. Conditional Approvals:** The Planning Commission may impose reasonable conditions with the approval of a site plan, pursuant to **Section 10.03** of this Ordinance.



- I. **Performance Guarantee Required:** The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a site plan, pursuant to **Section 10.06** of this Ordinance.
- J. **Reapplication:** No application for approval of a site plan which has been denied, wholly or in part, by the Planning Commission shall be re-submitted for a period of one (1) year from the date of such denial, unless a rehearing is granted pursuant to **Section 10.04** of this Ordinance.

## **Article VII: Uses Subject to Special Use Permit**

### **Section 7.01 – Purpose**

It is the purpose of this Article to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics), which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the Township.

### **Section 7.02 – Uses Subject to Special Use Permit**

Uses requiring special use permit shall be subject to the general provisions and supplemental site development standards of this Ordinance, and the provisions of the zoning district where located in addition to applicable provisions of this Article to prevent conflict with or impairment of the other uses or uses permitted by right of the district. Each use shall be considered an individual case.

#### **A. Applications:**

Application shall be submitted through the office of the Zoning Administrator, to the Planning Commission, on a special form provided for that purpose, and shall include the following:

1. Site plan prepared under the requirements of Section 6.03 – Site Plan Review (All Districts)- Site Plan Data Required.
2. Name and address of applicant and owner of the premises.
3. Description of proposed use, including parking facilities, if required, and any exceptional traffic situation the use may generate.
4. A statement by applicant appraising the effect on the neighborhood.
5. The application shall be accompanied by the fee established by the Township Board of Trustees.
6. A detailed written statement, with supporting evidence, demonstrating how the proposed special land use will comply with the standards for special use permits as specified in Section 7.02.D of this Ordinance.

#### **B. Zoning Administrator's Review:**

1. The Zoning Administrator shall review the application and information submitted under subsection A above to determine if all required information was supplied. If the Zoning Administrator determines that all required information was not supplied, he or she shall send written notification to the applicant detailing the deficiencies. The application for the special use permit shall not proceed until all required information has been supplied.
2. Once all required information is submitted, the Zoning Administrator shall forward the application to the Planning Commission for its review under the procedures of this Article.

**C. Public Hearings:**

A public hearing shall be held for all special use permit requests. The secretary of the Planning Commission shall provide notice of the special use permit request and public hearing as required by the Michigan Zoning Enabling Act, Act 110 of Public Acts 2006. The notice shall be given not less than fifteen (15) days before the date the application will be considered. The notice shall describe the nature of the special use permit request, indicate the subject property, state when and where the special use permit request will be considered, and when and where written comments will be received concerning the request. Notices shall be provided as follows:

1. One (1) notice shall be published in a newspaper, which circulates generally in the Township.
2. Notice shall be sent by mail or personal delivery to the owners of the subject property.
3. Notice shall be sent by mail or personal delivery to the owners of property within three hundred (300) feet of the boundary of the subject property regardless of whether the property is located in Evangeline Township.
4. Notice shall be sent by mail or personal delivery to the occupants of structures within three hundred (300) feet of the boundary of the subject property regardless of whether the occupants are located in the Township. If a structure contains more than one (1) dwelling unit or spatial area, one (1) occupant of each dwelling unit or spatial area shall receive notice.

**D. Standards for granting Special use permit:**

The Planning Commission shall approve, or approve with conditions an application for a special land use permit only upon finding that the proposed special land use complies with the following standards:

1. The property subject to the application is located in a Zoning District in which the proposed special land use is allowed.
2. The proposed use subject to a special use permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
3. The proposed special land use shall not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties or uses in the area by reason of traffic, noise, smoke, fumes glare, odors, or the accumulation of scrap material that can be seen from any public road or seen from any adjacent land owned by another person.
4. The proposed special land use shall not place demands on fire, police, or other public resources in excess of current capacity
5. The proposed special land uses shall be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
6. The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.
7. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the township or the natural environment as a whole.
8. The proposed special land use complies with all applicable specific standards required under this Ordinance.

**E. Conditional Approvals:** The Planning Commission may impose reasonable conditions with the approval of a special use permit, pursuant to **Section 10.03** of this Ordinance.

**F. Performance Guarantee Required:** The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a special use permit, pursuant to **Section 10.06** of this Ordinance.

**G. Amendment of Approved Special Use Permits:** Amendment of an approved special use permit shall be permitted only under the following circumstances:

1. The owner of property for which a special use permit has been approved shall notify the Zoning Administrator in writing of any desired change to the approved special use. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - a. Reduction of the size of any building and/or sign.
  - b. Movement of building and/or signs by no more than ten (10) feet.
  - c. Landscaping approved in the special use that is replaced by similar landscaping to an equal or greater extent.
  - d. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
  - e. Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
  - f. Changes related to item a. through e. above, required or requested by Evangeline Township, Charlevoix County, or other State or Federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.
  - g. All amendments to a special land use approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare and submit a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
2. An amendment to an approved special use permit that cannot be processed by the Zoning Administrator under subsection A. above shall be processed in the same manner as the original special land use application.

**H. Expiration of Special Use Permit:**

1. An approved special use permit shall expire one (1) year following approval by the Planning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration, and/or the property owner applies to the Planning Commission for an extension prior to the expiration of the special use permit. The Planning Commission shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the special use permit approval have not changed since the approval.
2. If the special use permit expires pursuant to subsection A. above, no work pursuant to the special use permit shall be undertaken until a new special use permit is obtained from the Planning Commission following the procedures for a new special use permit.

**I. Reapplication:** No application for a special use permit which has been denied, wholly or in part, by the Planning Commission shall be re-submitted for a period of one (1) year from the date of such denial, unless a rehearing is granted pursuant to **Section 10.04** of this Ordinance.

**J. Jurisdiction of the Zoning Board of Appeals:** The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the granting of special use permits.

**K. Inspection:** The Zoning Administrator shall have the right to inspect any permitted special use to ensure continued compliance with the conditions of the special use permit.

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## Article VIII: Supplemental Site Development Standards

Those permitted uses and uses subject to a Special Use Permit enumerated in any Zoning District, if included below, shall be subject to the following conditions and requirements.

### Section 8.01 – Bed and Breakfast Establishments

Bed and breakfast establishments shall be subject to the following regulations:

- A. Bed and Breakfast Establishments as an Accessory Use:** The bed and breakfast establishments shall be clearly incidental to the principal residence on the site. Accordingly, the bed and breakfast operations shall be confined to the single-family dwelling unit which is the principal dwelling on the site. Not more than thirty percent (30%) of the total floor area of the dwelling unit shall be used for bed and breakfast sleeping rooms (bed and breakfast units).
- B. Maximum Number of Units:** No more than five (5) bed and breakfast units shall be established in dwelling units located on lots less than 2.5 acres in size. Where lot size exceeds 2.5 acres, the number of bed and breakfast units permitted shall be based on good design principles, subject to Planning Commission review.
- C. Principal Residence:** The dwelling unit shall be the principal residence of the operator, and the operator shall live in the dwelling unit when the bed and breakfast facility is in operation.
- D. Kitchen Facilities:** There shall be no separate cooking facilities for the bed and breakfast establishment, other than those which serve the principal residence. Cooking facilities may be used to provide meals to the patrons of the establishment, however, may not be utilized in a commercial manner, such as a restaurant for dine in, delivery, or carry out for non-patrons of the bed and breakfast establishment.
- E. Building Requirements:** A building used for a bed and breakfast establishment shall comply with the following minimum requirements:
  - 1. There shall be at least two (2) exits to the outdoors.
  - 2. Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus an additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.
  - 3. Each sleeping room shall be equipped with a smoke detector.
- F. Parking:** Adequate off-street parking shall be provided for bed and breakfast patrons, with one additional parking space provided for each bed and breakfast sleeping room. Off-street parking in the front yard is prohibited.

### Section 8.02 – Campgrounds

Campgrounds shall be subject to the following regulations (amended September 8, 2020):

- A.** The minimum lot size shall be ten (10) acres, and not less than six hundred (600) feet in width.
- B.** The lot shall provide direct vehicular access to a public street or road. The term "lot" shall mean the entire campground or travel trailer park.
- C.** All sanitary stations, privies, or any other sanitary facilities shall be located at least one hundred (100) feet from property lines.

- D. Campground perimeter shall be completely screened by natural terrain, neatly finished and well-maintained wooden fence or masonry wall, or by well-maintained live evergreens.
- E. Campsites shall be located at least fifty (50) feet from property lines.
- F. All campgrounds and trailer courts shall comply with State of Michigan and Health Department requirements.

### **Section 8.03 – Cemeteries**

- A. **Location:** No portion of any cemetery that is located in a wetland shall be developed or platted for grave sites.
- B. **Accessory Buildings:** A crematorium, mausoleum, columbarium, or other accessory building may be permitted within a cemetery provided that any such building shall be designed and located in accordance with a cemetery master plan, which shall be subject to Planning Commission approval.
- C. **Setbacks:** No building or structures containing bodies or remains, other than subterranean graves, shall be located closer than fifty (50) feet to the boundary line of any residential or commercial district.

### **Section 8.04 – Repealed: November 2016**

### **Section 8.05 – Kennels**

- A. All kennels shall be operated in conformance with County and State regulations and shall be on sites of at least five (5) acres.
- B. Animals shall be confined in a fenced area to preclude their approaching nearer than five hundred (500) feet to any dwelling on adjacent premises or nearer than fifty (50) feet from the property line, whichever is greater.
- C. Any fenced areas shall be screened from adjacent properties and/or roads with an opaque fence or a vegetated evergreen buffer at least five (5) feet in height.
- D. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.
- E. Animals shall be kept in a soundproof building between the hours of 10 p.m. and 8 a.m.
- F. All principal use activities shall occur within an enclosed main building.

### **Section 8.06 – Manufactured Home Developments**

Manufactured home developments shall be subject to the following conditions:

- A. Manufactured home developments shall be developed and licensed pursuant to the requirements of the Michigan Manufactured Housing Commission, Public Act 96 of 1987 and any rules promulgated pursuant to this Act, as amended. This includes but is not necessarily limited to compliance with Michigan Manufactured Housing Commission regulations concerning internal roads, parking requirements, fencing, screening, unit spacing and recreational and open spaces.

- B. To the extent permitted by the Michigan Manufactured Housing Commission, this Ordinance shall require all manufactured housing in manufactured housing developments to be anchored to the ground in accordance with the standards and specifications of the manufacturer and any applicable state and federal statutes and rules.
- C. To the extent permitted by the Michigan Manufactured Housing Commission, this Ordinance shall require the underside or chassis of all manufactured housing in manufactured housing developments to be fully skirted or enclosed with durable, weather-resistant materials, as specified by the manufacturer or as specifically manufactured for use as home skirting. All such skirting shall be maintained.

### **Section 8.07 – Motels and Hotels**

- A. Motels and Hotels shall have direct access to a public road.
- B. Motels and Hotels shall have a minimum lot width of one hundred fifty (150) feet at the road line.
- C. There shall be at least eight hundred (800) square feet of lot area per guest room.
- D. Each unit shall contain at least a bedroom and bath and a minimum gross floor area of two hundred fifty (250) square feet.

### **Section 8.08 – Nursing Homes, and Assisted Living Facilities**

Nursing and convalescent homes, medical care facilities and similar uses shall meet the following requirements:

- A. The minimum lot size for such facilities shall be five (5) acres.
- B. Such uses shall front onto a paved County primary road and the main means of access for residents or patients, visitors, and employees shall be via the paved road. (amended: August 4, 2009)
- C. Any such facility shall provide a minimum of fifteen hundred (1,500) square feet of outdoor open space for every room used or intended to be used for patient housing. The open space shall be landscaped and shall include places for walking and sitting. Off-street parking areas, driveways, and accessory uses or areas shall not be counted as required open space.
- D. Nursing homes, convalescent homes, rest homes, orphanages, and half-way houses shall be constructed, maintained, and operated in conformance with applicable state and federal laws.



## **Section 8.09 – Public Buildings, Institutions and Places of Worship**

Public buildings (except public works garages and storage yards), places of worship, public schools, private schools and their local supporting service uses shall meet the following requirements: (amended: August 4, 2009)

- A. The arrangement of property uses shall consider the impact on scenic views, and if feasible, the site design shall endeavor to mitigate negative impacts related to building size, noise, lighting and traffic.
- B. Any uses of church structures or properties for such other purposes as recreation, day care centers, group housing, and the like, shall be considered separately as part of the conditions to granting or denying a special use permit in residential districts.

## **Section 8.10 – Riding Stables**

- A. Riding stables shall be on sites of at least ten (10) acres in size.
- B. Riding stables for horseback riding shall be subject to the review and approval of the Planning Commission, who shall find that animal housing facilities are located at least three hundred (300) feet from any existing off-premises residential structure.

## **Section 8.11 – Repealed: November 2016**

## **Section 8.12 – Sand and Gravel Excavation Operations**

- A. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to strip greater than two thousand (2,000) cubic yards of topsoil, sand, clay, gravel or similar material, or to use lands for filling within the Township without first submitting a site plan and procuring approval from the Planning Commission.
- B. A separate site plan approval shall not be required for excavation or fill activities associated with building construction pursuant to a duly issued building permit. However, where sand, gravel, topsoil, or other substances are removed from the site where found and taken to another site, site plan approval is needed for the receiving site.
- C. Site plan application. A separate site plan shall be required for each separate excavation or fill site. In addition to the site plan requirements listed in Section 6.02 (B) Site Plan Review (All Districts), a site plan prepared under this section shall also include:
  - 1. Names and addresses of parties interested in said premises setting forth their legal interest in said premises.
  - 2. Full legal description of the premises where operations are proposed.
  - 3. Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
  - 4. Detailed statement as to exactly what type and quantity of material is proposed to be extracted or deposited.
  - 5. Proposed method of filling, excavation and/or other means to be used to allow for the reclamation of lands for a usable purpose.
  - 6. Such other information as may be reasonably required by the Planning Commission to base an opinion as to whether the site plan should be approved or not.
- D. The sand and gravel operations application shall provide information to confirm compliance with the following standards:
  - 1. Hours of Operation

- a. The operation of mechanical equipment of any kind shall be limited by the day and/or the hour. Site Specific Hours of Operation for mining, processing and reclamation activities must be approved, but shall not exceed the following schedule Monday through Saturday, excluding legal holidays, during the following times:
- b. Mining or extracting operations, and processing and stockpiling of aggregates shall occur only between the hours of 7:00 a.m. and 6:00 p.m.
- c. Loading and hauling operations shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
- d. Equipment maintenance and repair shall occur only between the hours of 7:00 a.m. and 9:00 p.m.

## 2. Screening

Fences, berms, walls, and visual screening devices may be required, if necessary, in the opinion of the Planning Commission, to protect adjoining properties and/or ensure the health, safety and welfare of persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.

## 3. Noise, Dust, Debris

All processing equipment and activities and all storage areas shall be located, treated, covered, muffled, or otherwise controlled to prevent excessive dust, debris, or other impacts beyond the property line. Noise levels shall not exceed 60 dBA at the property line during approved hours of operation, any activity occurring on Sundays, and before 8:00 am or after 6:00 pm on all other days that generates continuous and persistent noises or vibrations that endanger or injure the safety or health of humans or animals or that annoys or disturbs a reasonable person of normal sensitivities, shall not be permitted. Any trucks hauling material to or from the site shall be enclosed or covered to prevent materials from blowing or falling out of the trucks.

## 4. Groundwater Impact

Extractive operations shall be managed and designed so as to not cause any negative impact on groundwater and potable water supply, whether as a result of contamination or reduction in the rate and/or volume of flow.

## 5. Road Impact

- a. Extractive operations shall be managed and designed so as to have minimum negative impact on existing roadways. The truck route to be utilized in the accessing of the extraction site shall be designated and subject to approval by the Planning Commission.
- b. Dust caused by truck traffic at the entrance drive shall be treated as needed with dust suppression material.
- c. Soil deposition on public roads shall be minimized and resulting depositions shall be cleaned a minimum of once a day.

## 6. Reclamation Plan

- a. A reclamation plan shall include all information required by any state or federal agency having jurisdiction and shall include the following:
- b. Description and location of each phase, number of acres included in each phase, estimated starting and termination dates for each phase and the amount of time that will be required to complete the entire reclamation operation. All areas shall be reclaimed progressively as the extraction in that area is completed. Reclaimed areas shall be reasonably natural and inconspicuous, lacking in hazards and in a condition such that

the area can be reused for an allowable use in the district in which the site is located. All slopes and banks shall be graded to angles that do not exceed those found in the natural topography of the surrounding area, and the banks shall be treated to prevent erosion.

- c. Provisions for grading, drainage, re-vegetation/re-forestation, and stabilization that will minimize soil erosion, sedimentation and public safety problems and re-establish a natural resource base.
- d. Description of proposed future land uses.
- e. Description of plans for disposition of all structures, roads, drains or related facilities after cessation of the extractive operation.
- f. A plan for disposal or treatment of all harmful or toxic materials found in any formations penetrated by the extractive operation or produced during the processing of minerals on the site and of chemicals or materials used during the extractive, processing or reclamation operations.
- g. All information required as part of a reclamation plan that is required by state or federal law.
- h. All top soil shall be stripped and stockpiled for reuse.
- i. An aerial photograph shall be taken prior to any extraction. Photographic image scale shall be no more than 375 feet to the inch. (amended: August 4, 2009)

### **Section 8.13 – Storage Facilities**

- A. Storage uses as allowed in the Industrial (I), and Mixed-Use Districts, including mini-storage, shall meet the following regulations, including the illustrated standards:
  - 1. All proposed storage buildings located nearest to the primary access road shall be sited perpendicular to the road and setback a minimum of 100 feet from the road right-of-way.
  - 2. All buildings that will be clearly visible from the road or adjacent properties shall be screened by a vegetative buffer. At the time of initial installation and maintained thereafter, this buffer, at a minimum, will consist of two staggered rows of Red or White Pine, Norway Spruce, or Douglas Fir, or a mixture of any of these species. Trees shall be a minimum of 10 feet in height at planting. Plant spacing will be a maximum of 10 feet within the row, with the rows being a maximum of 10 feet apart. As an alternative, smaller trees a minimum of 5 feet in height may be planted on an earthen berm which shall be a minimum of 5 feet in height. Planting spacing shall remain the same. All transplanted trees except for seedlings shall be irrigated with a drip irrigation system for a minimum of 3 years after planting. The remainder of the perimeter may be planted with red or white pine seedlings at the same spacing. The property owner(s) shall be responsible for the ongoing maintenance of the vegetative buffer. Any dead or dying plants shall be replaced at the beginning of the next growing season with similar-sized plants.
  - 3. Any security fencing shall be located inside of the vegetative screening.
  - 4. The maximum building height shall be 25 feet.
  - 5. All exterior light shall be shielded and directed downward. Light elements shall be recessed in their fixtures in a manner that they cannot be seen off-site.
  - 6. All buildings shall be Forest Green in color, or muted earth-tones as found in the natural environment of the surrounding areas within the township.
  - 7. All projects as a condition for approval shall have an engineered stormwater mitigation plan which complies with the Uniform Storm Water Management Ordinance for Charlevoix County.

## **Section 8.14 – Telecommunication Towers, Antennae and Facilities**

In addition to the standards set forth in a particular Zoning District and the standards set forth in **Section 7.02** of this Ordinance, Telecommunication Towers and Alternative Tower Structures must meet the following additional standards:

- A. Application Requirements:** The following information shall be provided in support of an application to construct a Telecommunication Tower or Alternative Tower Structure:
1. Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunication Tower is designed to collapse.
  2. A map depicting the existing and known proposed location of wireless Telecommunication Facilities, including wireless Telecommunication Antenna attached to Alternative Tower Structures, within Evangeline Township as well as within the proposed service area radius.
  3. The name, address, and telephone number of the person to contact regarding site maintenance or other notification purposes. This information shall be updated annually by the Telecommunication Tower or Alternative Tower Structure owner and sent to the Township Zoning Administrator.
  4. A statement which indicates the applicant's intent to allow the co-location of other Antenna.
- B. Evidentiary Requirements:** The applicant must demonstrate that no existing Telecommunication Tower, Alternative Tower Structure or alternative technology not requiring the use of Telecommunication Towers or Alternative Tower Structures can accommodate the applicant's proposed Antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing Telecommunication Towers, other Alternative Towers or alternative technology. Evidence submitted to demonstrate that no existing Telecommunication Tower, Alternate Tower Structure or alternative technology can accommodate the applicant's proposed Antenna shall consist of all of the following:
1. No existing Telecommunication Towers or Alternative Tower Structures are located within the geographic area which meet applicant's engineering requirements.
  2. Existing Telecommunication Towers or Alternative Tower Structures are not of sufficient height to meet applicant's engineering requirements.
  3. Existing Telecommunication Towers or Alternative Tower Structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  4. The applicant's proposed Antenna would cause electromagnetic interference with the Antenna on the existing Telecommunication Towers or Alternative Tower Structures, or the Antenna on the existing Telecommunication Towers or Alternative Tower Structures would cause interference with the applicant's proposed Antenna.
  5. The fees, costs, or contractual provisions required by the owner in order to share an existing Telecommunication Tower or Alternative Tower Structure or to adapt an existing Telecommunication Tower or Alternative Tower Structure for sharing are unreasonable.
  6. The applicant demonstrates that there are other limiting factors that render existing Telecommunication Towers and Alternative Tower Structures unsuitable.
  7. The applicant demonstrates that an alternative technology that does not require the use of Telecommunication Towers or Alternative Tower Structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable.
  8. No cooperative agreement can be reached to replace an existing Telecommunication Tower or Alternative Tower Structure with a new Telecommunication Tower or Alternative Tower Structure to provide service for multiple users and providers.
  9. Proof that no municipal locations will work within the service area radius.

- C. **Setbacks:** The following setback requirements shall apply to all Towers for which a special use permit is required.
1. Towers shall be setback a distance equal to at least two hundred (200) feet or one hundred (100) percent of the height of the Tower from any adjoining lot line, whichever is greater.
  2. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- D. **Security fencing:** Towers and attendant accessory structures shall be enclosed by security fencing six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
- E. **Landscaping:** The following requirements shall govern the landscaping surrounding Telecommunication Towers, Alternative Tower Structures and Tower Compounds for which a special use permit is required.
1. Telecommunication Tower and Alternative Tower Structure facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the Tower Compound. The standard buffer shall consist of a landscaped strip at least twenty (20) feet wide outside the perimeter of the Tower Compound. Screening required pursuant to this subsection shall be in place upon completion of the Tower Compound and be immediately effective.
  2. In locations where the visual impact of the Tower would be minimal, the landscaping requirement may be reduced or waived by the Planning Commission.
  3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as Telecommunication Towers or Alternative Tower Structures sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer, as determined by the Planning Commission.
- F. **State or Federal Requirements:** The applicant must demonstrate that the Telecommunication Tower or Alternative Tower Structure meets or exceeds current standards. All Telecommunication Towers or Alternative Tower Structures shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Michigan Aeronautics Commission (MAC), the Federal Communications Commission (FCC), and any other agency of the State or Federal government with the authority to regulate Telecommunication Towers or Alternative Tower Structures and Antennas. If such standards and regulations are changed, then the owners of the Telecommunication Towers or Alternative Tower Structures and Antennas governed by this Ordinance shall bring such Telecommunication Towers or Alternative Tower Structures and Antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring Telecommunication Towers or Alternative Tower Structures and Antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the Telecommunication Towers or Alternative Tower Structures or Antenna at the owner's expense.
- G. **Aesthetics:** Applicant shall demonstrate that Telecommunication Towers or Alternative Tower Structures and Antennas meet the following requirements:
1. Telecommunication Towers or Alternative Tower Structures shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or MAC, be painted a color so as to reduce visual obtrusiveness.
  2. At a Telecommunication Tower or Alternative Tower Structure site, the design of the buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  3. If an Antenna is installed on a structure other than a Telecommunication Tower or Alternative Tower Structure, the Antenna and supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with the color of the supporting structure so as to make the Antenna and related equipment as visually unobtrusive as possible.

4. Where a feasible alternative exists, Telecommunication Towers, Alternative Tower Structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
  5. The type of Telecommunication Tower or Alternative Tower Structure chosen shall be the minimum necessary to provide service (i.e. monopole structure vs. a straight lattice structure, a straight lattice structure vs. a flared bottom lattice structure).
- H. **Lighting:** Towers shall not be artificially lighted. If the applicant demonstrates that the Tower must be of such a height that lighting is required by the FAA, the MAC or other applicable authority, the applicant must demonstrate that the lighting alternatives and design chosen cause the least disturbance to the surrounding views.
- I. **Compliance with Codes:** The applicant must demonstrate that the antenna and metal Telecommunication Towers or Alternative Tower Structures are grounded for protection against a direct strike by lightning and comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for Telecommunication Towers or Alternative Tower Structures published by the Electronic Industries Association, as amended.
- J. **Interference with Residential Reception:** The applicant must demonstrate that the Telecommunication Tower or Alternative Tower Structure shall be located so that it does not interfere with television or radio reception to neighboring residential areas, or hearing devices.
- K. **Signs:** No signs shall be allowed on a Telecommunication Tower or Alternative Tower Structure or Antenna except any sign required pursuant to federal, state, or local statute, ordinance or rule, and a single sign no larger than one (1) foot by two (2) feet containing the name of the Telecommunication Tower or Alternative Tower Structure owner and a telephone number to be used in case of emergency.
- L. **Spacing – Towers:** Telecommunication Towers or Alternative Tower Structures shall be located no closer than one and one half (1.5) miles from an existing Telecommunication Tower or Alternative Tower Structure, as measured in a straight line between the base of the existing Telecommunication Tower or Alternative Tower Structure and the base of the proposed Telecommunication Tower or Alternative Tower Structure. This spacing requirement shall apply to Telecommunication Towers or Alternative Tower Structures located outside of the municipal boundaries of Evangeline Township.
- M. **Spacing – Residences:** A Telecommunication Tower or Alternative Tower Structure shall not be located within two hundred (200) feet or three hundred (300) percent of the height of the Telecommunication Tower or Alternative Tower Structure, whichever is greater, of a single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the Telecommunication Tower or Alternative Tower Structure to the lot line of the single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons.
- N. **Spacing – Airport:** No Telecommunication Tower or Alternative Tower Structure shall be located so as to interfere with the ability of aircrafts to safely arrive and depart the Boyne City Airport, according to the future flight paths designated by the FAA and/or the MAC, including after any airport expansion. No Telecommunication Tower or Alternative Tower Structure will be permitted in those paths which changes the minimum descent altitude that exists on or after the effective date of this Ordinance.

- O. Telecommunication Towers or Alternative Tower Structures Height:** Within a two and one half (2 ½) mile radius in Evangeline Township from the center point of the runway of the Boyne City Municipal Airport, Telecommunication Towers or Alternative Tower Structures shall be no higher than one thousand, one hundred twenty-two (1,122) feet above International Great Lakes Datum, 1985. (amended: August 4, 2009)
- P. Removal of Abandoned Antennas and Telecommunication Towers or Alternative Tower Structures:** Any Telecommunication Tower, Alternative Tower Structure or Antenna that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such Telecommunication Tower, Alternative Tower Structure or Antenna shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said Telecommunication Tower, Alternative Tower Structure or Antenna to its original condition prior to location of the Telecommunication Tower, Alternative Tower Structure or Antenna subject to reasonable wear and tear. Failure to remove an abandoned Telecommunication Tower, Alternative Tower Structure or Antenna within said ninety (90) days shall be grounds for the Township to remove the Telecommunication Tower, Alternative Tower Structure or Antenna at the owner's expense. If there are two (2) or more users of a single Telecommunication Tower or Alternative Tower Structure, then this provision shall not become effective until all users cease using the Telecommunication Tower or Alternative Tower Structure. The Planning Commission may require the applicant to file and maintain a bond equal to the reasonable cost of removing the Telecommunication Tower, Antenna, Alternative Tower Structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.

### **Section 8.15 – Temporary Sawmills and other mills**

Temporary Sawmills, planing mills, veneer mills and accessory or incidental mill operations involving logs, "unprocessed timber" and/or rough sawn lumber, shall be allowed for a time period of no more than one (1) year and then vacated for a minimum of five (5) years provided:

- A.** The use involves the processing of raw timber and/or rough lumber and shall not include retail lumberyard businesses or hardware supplies, paints, and the like. Log and lumber storage uses are permissible accessory uses.
- B.** The land area of the mill site shall be at least ten (10) acres with a minimum lot width of 660 feet.
- C.** Structures housing mechanical wood cutting devices (head saws, cut-off saws, planers, lathers, etc.), shall not be located closer than 500 feet to an off-premises residence.
- D.** Log storage and sawn timber or lumber shall not be located nearer than 500 feet from an off-premises residence.
- E.** The location of a proposed mill is determined by the Planning Commission to be compatible with other uses in the general vicinity taking into account traffic flow, noise, scenic values, and residential environments where applicable, and any Township or Community Land Use Plans for the area.
- F.** In considering applications for forest industries, the Planning Commission may permit modifications to the standards in items 1 through 5 where, owing to natural or man-made conditions, no good purpose would be served by requiring strict compliance. Such conditions may include, but need not be limited to, steep topography, intensely wooded areas, other natural barriers, existing uses, and the like.
- G.** Nothing in this Ordinance shall be interpreted to exclude temporary and itinerant sawmill operations on property where the timber harvesting involves only those resources found on the same

property. No permit shall be required where the operation involves a period of less than six (6) months on the same property.

### **Section 8.16 – Veterinary Clinic/Animal Hospital**

- A. All veterinary clinics and animal hospitals shall be operated in conformance with County and State regulations and shall be located on sites of at least one (1) acre in size.
- B. Animals shall be confined in a fenced area to preclude their approaching nearer than 500 feet to any dwelling on adjacent premises or nearer than 50 feet from the property line, whichever is greater.
- C. Any fenced areas shall be screened from adjacent properties and/or roads with an opaque fence or a vegetated evergreen buffer at least five (5) feet in height.
- D. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.
- E. Animals shall be kept in a soundproof building between the hours of 10 p.m. and 8 a.m.
- F. All principal use activities shall occur within an enclosed main building.

### **Section 8.17 – Wind Turbine Generators, Commercial and Anemometer Towers**

Unless otherwise provided, wind turbine generators (WTG), commercial and anemometer towers shall comply with all of the following standards:

- A. **Sufficient Wind Resources:** The proposed site shall have documented annual wind resources sufficient for the operation of the proposed wind turbine generator; provided, however, this standard shall not apply to an anemometer tower. No wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site over a minimum of one (1) year. Said study shall indicate the long term commercial economic viability of the project. The Township may retain the services of an independent, recognized expert to review the results of the wind resource study prior to acting on the application for special use permit.
- B. **Minimum Site Area:** The minimum site area for a wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall be as necessary to meet required setbacks and any other standards of this Ordinance.
- C. **Setbacks:** Each proposed wind turbine generator or anemometer tower shall meet the following applicable setback requirements:
  - 1. Each wind turbine generator shall be setback from any adjoining lot line a distance equal to one and one half (1.5) times the total height of the WTG. The Planning Commission may reduce this setback to no less than one hundred (100) feet, provided the adjoining property is owned by the applicant. The amount of setback relief approved by the Planning Commission shall be based on data provided by the applicant and prepared by a qualified professional. Such data shall satisfy the Planning Commission that any potential blade and ice throw will not cross the property line and that sound levels will not exceed sixty (60) decibels on the dB(A) scale at the property line from which the WTG is setback. Data provided shall be specific to the proposed tower in the proposed location taking into consideration prevailing winds, topography, existing vegetation, and other relevant factors.
  - 2. In addition to the above, a wind turbine generator shall, in all cases, be setback from a public or private road right-of-way or existing easement a minimum distance equal to one and one half (1.5) times the height of the wind turbine generator tower as defined in the Ordinance.



3. For any newly proposed wind turbine generator or anemometer tower, a “wind access buffer” equal to a minimum of five (5) rotor diameters shall be observed from any existing off-site wind turbine generator tower, based on the average rotor diameter between the existing and proposed WTG.
- D. **Maximum Height:** Within 1.3 miles of the Boyne City Airport, the maximum wind turbine generator height or the height of an anemometer tower erected prior to the wind turbine generator shall be four hundred (400) feet above the existing grade and shall not exceed an elevation of one thousand, one hundred twenty-two (1,122) feet above International Great Lakes Datum, 1985, inclusive of the blade at the maximum vertical position. (amended: August 4, 2009)
- E. **Minimum Rotor Wind Vane or Blade Clearance:** The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than twenty (20) feet above ground.
- F. **Maximum Noise Levels:** Any proposed wind turbine generator shall result in the production of cumulative sound levels that are no more than sixty (60) decibels as measured on the dB(A) scale at the property lines of the site in question.
- G. **Maximum Vibrations:** Any proposed wind turbine generator shall not produce vibrations through the ground humanly perceptible beyond the property on which it is located.
- H. **Shadow Flicker:** Any proposed wind turbine generator shall be designed and sited in such a manner to minimize shadow flicker expected to fall on a roadway and on any existing structures located off the property on which the wind turbine generator is constructed.
- I. **Interference with Residential Reception:** Any wind turbine generators shall be constructed and operated so that they do not interfere with television, microwave, navigational or radio reception to neighboring areas.
- J. **Landscaping:** Each proposed wind turbine generator shall meet the following landscaping requirements; provided, however, the Planning Commission may reduce or waive such requirements if it finds that because of the remote location of the site, or other factors, the visual impact of the wind turbine generator would be minimal.
  1. The base of the wind turbine generator shall be landscaped with a buffer of plant materials that effectively screens the view of the bases of these facilities from adjacent property used for residential purposes. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the facilities.
  2. Existing natural land forms on the site which effectively screens the base of the wind turbine generator or anemometer tower erected prior to a wind turbine generator from adjacent property used for residential purposes shall be preserved to the maximum extent possible.
  3. Landscaping shall be designed to counter the effects of “shadow flicker” on any neighboring residences or roadways caused by the rotor rotation in the sunlight.

To ensure compliance with these landscaping standards, the Planning Commission may require additional landscaping on the site after the installation of the wind turbine generator.

- K. **State or Federal Requirements:** Any proposed wind turbine generator or anemometer tower shall meet or exceed any standards and regulations of the Federal Aviation Administration (FAA), Michigan Aeronautics Commission (MAC), the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the special use permit is approved.

- L. Soil Conditions:** A proposal for any wind turbine generator or anemometer tower shall be accompanied by a report of the soils present on the site based on soil borings, and a description of the proposed foundation size, materials, and depth. The top of such a foundation shall be installed to a depth of five (5) feet below grade, to allow for feasible future reuse of the land unless the applicant provides a financial assurance that the foundation will be removed in the event that the tower is removed.
- M. Aesthetics and Lighting:** Any proposed wind turbine generator or anemometer tower shall meet the following requirements:
1. Each wind turbine generator or anemometer tower shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA and MAC, be painted a neutral color so as to reduce visual obtrusiveness.
  2. Each wind turbine generator, including all accessory structures, or anemometer tower shall, to the extent possible, use materials, and colors that will blend them into the natural setting and surrounding buildings. A medium gray shade is the preferred color for any wind turbine generator or anemometer tower; however, the Planning Commission may approve an alternate color if the facility is suspected to be located within an avian migratory route or if an alternate color would otherwise benefit the community.
  3. Each wind turbine generator or anemometer tower shall not be artificially lighted, unless required by the FAA, MAC or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen:
    - a. Shall be the minimum intensity required under FAA or MAC regulations.
    - b. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA or MAC. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA or MAC.
    - c. May be a red top light that does not pulsate or blink.
    - d. All tower lighting required by the FAA or MAC shall be shielded to the extent possible and acceptable to the FAA or MAC to reduce glare and visibility from the ground.
  4. Each wind turbine generator or anemometer tower shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.
  5. Each wind turbine generator or anemometer tower shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires, unless specifically approved by the Planning Commission.
  6. All wiring from any wind turbine generator to any transmission line and/or any substation shall be placed underground. (amended: August 4, 2009)
- N. Sign:** A sign no more than four (4) square feet in area displaying an address and telephone number for emergency calls and informational inquires shall be posted at the proposed wind turbine generator or anemometer tower erected prior to a wind turbine generator. No wind turbine generator tower or anemometer tower or site shall include any advertising sign.
- O. Hazard Planning:** An application for a wind turbine generator shall be accompanied by a hazard prevention plan. Such plan shall address the following at a minimum:
1. Certification that the electrical wiring between turbines and between turbines and the utility right-of-way does not pose a fire hazard.
  2. The landscape plan accompanying the application shall be designed to avoid spread of fire from any source on the turbine; such preventative measures may address the types and locations of vegetation below the turbine and on the site.
  3. The following shall be submitted with the application for a special use permit for a wind turbine generator:
    - a. A listing of any hazardous fluids that may be used on site shall be provided, including Material Safety Data Sheets (MSDS).

- b. Certification that the turbine has been designed to contain any hazardous fluids.
- c. A statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released from the turbine.
- d. A Hazardous Materials Waste Plan.

**P. Approvals:** All required approvals from other local, regional, state or federal agencies must be obtained prior to submittal of a site plan, and such approvals shall be submitted as part of the required site plan for Planning Commission consideration.

**Q. Removal of Abandoned Wind Turbine Generators or Anemometer Towers:**

1. Wind production summary reports by month shall be provided annually for each WTG to the Township Planning Commission and the Township Clerk, by January 31<sup>st</sup> each year, for the preceding year.
2. Any wind turbine generator or anemometer tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such wind turbine generator or anemometer tower shall remove the same within 180 days of receipt of notice from the Township of such abandonment. In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind generator or anemometer tower shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored. Failure to remove an abandoned wind turbine generator or anemometer tower within the 180-day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense. The Planning Commission shall require the applicant to file and maintain an irrevocable bond equal to the reasonable cost (including adjustment for inflation) of removing the wind turbine generator or anemometer tower and attendant accessory structures as a condition of a special use permit given pursuant to this section.

**Section 8.18 - Low Impact Commercial Recreational Facilities** (adopted February 1, 2011)

Low impact commercial recreational facilities are those commercial activities where the primary use of the facility is outdoor recreation, and has minimal impact on the natural condition on the site, and where the support structures and support activities have minimal impact on the land, and on the potential for future development of the property. This includes activities such as zip lines, mountain bike trails, climbing walls, and non-motorized trails that are operated by the owner of the land on which such activities are conducted for economic gain. The Planning Commission may find that other activities may be included in this definition upon a finding that the unlisted activities have the same general, low impact characteristics on the land as the listed activities. Low impact commercial recreational facilities shall meet the following requirements:

- A.** The primary use of the facility shall take place in an outdoor environment. Excluded from this requirement shall be storage sheds for equipment, sanitary facilities, admission booths, and concession stands.
- B.** The parcel shall provide direct vehicular access to a public street or road. The term "parcel" in this subsection shall refer to the entire property.
- C.** All sanitary stations, privies, or any other sanitary facilities shall be located at least one hundred (100) feet from property lines.
- D.** A zoning permit shall be required before any structures, including those less than two hundred (200) square feet, are constructed.

## **Section 8.19 - Event Centers** (adopted July 2, 2019)

Event Centers shall comply with all of the following requirements:

- A. Dimensional and Siting Requirements:** In addition to all other dimensional and siting requirements of this Ordinance. The following provisions shall also apply:
1. **Minimum Parcel Size:** This use may only occur on parcels a minimum of 25 acres or greater in area.
  2. **Maximum Structure Exterior Square Footage for Event Center Building:** 7,500 square feet.
  3. **Maximum Number of Stories in Event Center Building:** 2
  4. **Setback requirements:** All structures and parking areas shall be setback a minimum of 200 feet from any public road and 100 feet from any adjacent parcels.
  5. **Parking Area Siting:** In areas easily viewed from public roads parking shall be located to the side or rear of the event center building and screened from views by buildings or vegetation.
- B. Other Requirements:**
1. The operator shall provide a written statement from the Health Department indicating the maximum number of persons who can be accommodated with permanent toilet facilities, and additional portable toilets shall be provided for any guests exceeding the aforementioned number. The location(s) of any required portable toilets shall be shown on the site plan.
  2. Hours of operation shall be confined between the hours of 10:00 a.m. and 10:00 p.m. (11:00 p.m. on weekends) unless otherwise authorized by the Planning Commission.
  3. Any music or entertainment provided for the activity must be for background purposes and not a featured item of the activity. Sound amplifiers are permitted as determined in site plan review.
  4. A written description of the planned activities for the event center shall be provided and include the following:
    - a. Type of gatherings. (The purpose of the gathering will not be considered in granting or denying a permit, provided it meets the purpose and intent of this ordinance.)
    - b. Frequency and number of activities proposed in a calendar year.
    - c. Maximum number of guests for any single activity.
  5. Light sources shall be directed downwards and shielded to prevent light being directed off the premises.
- C. Additional Site Plan Review Standards:**
1. The Planning Commission shall review the site plan for conformance with the regulations of the Rural Residential/Farm Forest District (RRF) Zoning District; and shall establish that the following standards have been satisfied:
    - a. The size of any activity and the maximum number of allowed guests on the property at one time shall not result in any substantial, adverse impact on the neighbors from noise, traffic, trespass, light, or other nuisance conditions.
    - b. Adequate area for parking of vehicles shall be provided so that there is no parking on public roads, and adequate setbacks from adjacent properties are maintained. The size of such parking areas shall be determined by the Planning Commission based on the maximum peak attendance anticipated by the applicant.
    - c. All structures shall be located so as to minimize potential adverse effects and impacts on adjacent and nearby properties. Temporary structures shall be erected no more than three (3) days prior to an event and shall be removed within three (3) days following an event unless otherwise authorized by the Planning Commission.

- Adopted May 2008

## **Article IX – Zoning Board of Appeals**

### **Section 9.01 – Zoning Board of Appeals Creation and Membership**

- A. The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act, Act 110, of Public Acts 2006 as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. The Board shall consist of three (3) members.
1. The first member shall be a member of the Township Planning Commission for the terms of his/her office.
  2. The remaining members must be selected from the electors of the Township residing outside of incorporated cities and villages and shall be representative of the population distribution and of the various interests present in the Township. One (1) member may be a member of the Township Board.
  3. An elected officer of the Township shall not serve as the chair. An employee or contractor of the Township Board may not serve as a member or an employee of the Board of Appeals.
- B. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if a regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

### **Section 9.02 – Meetings**

- A. Meetings of the Board of Appeals shall be held at the call of the Chair and at such other times as the Board of Appeals may determine or specify in its rules of procedure. All hearings conducted by said Board shall be open to the public. The Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the Township Clerk, which shall be a public record. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation of this Ordinance.
- B. The Board of Appeals shall not conduct business unless a majority of those Board of Appeals members qualified to sit for a particular matter are present to constitute a quorum, regardless of whether the members are regular members or alternate members.

### **Section 9.03 – Jurisdiction**

- A. An appeal concerning the administration of the provisions of this Ordinance may be taken to the Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall be filed within thirty (30) days of the decision of the Zoning Administrator from which the appellant seeks relief.

- B. The ZBA may hear appeals made by any person who alleges he or she has been aggrieved by a decision of the Zoning Administrator, except for Zoning Administrator decisions regarding enforcement of this Ordinance.
- C. The ZBA may grant variances as provided for in **Section 9.07 – Variances.**
- D. The ZBA may also interpret the location of Zoning District Boundaries and may interpret the provisions of this Ordinance on application by any person, firm or corporation, or by any Officer, Department or Board of the Township. (effective April 21, 2010)
- E. When the proposed use of land or use of a structure is not specified in this Ordinance, the Zoning Board of Appeals shall have the power upon written request of the property owner, Zoning Administrator or Planning Commission to classify the unlisted property use. In determining the proper classification of an unlisted property use, the Zoning Board of Appeals shall consider the characteristics of the proposed unlisted property use in relation to similar and comparable uses listed in any Zoning District and in relation to the requirements of the Township Master Plan. Once classified, the unlisted property use is subject to all applicable regulations pertaining to similar uses in the Zoning District in which placed, including the regulations pertaining to uses subject to special use permit approval, if classified as such a use by the Zoning Board of Appeals.
- F. An appeal may be made by any person, firm or corporation, or by any Officer, Department or Board of the Township. The appellant shall file with the Board of Appeals, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds for the appeal. (effective April 21, 2010)
- G. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Reasons for the decision shall be stated.
- H. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.
- I. The ZBA has no jurisdiction to hear appeals from Planning Commission decisions concerning special use permits. (effective April 21, 2010)

#### **Section 9.04 – Exercising Power**

In exercising the above powers, the Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.

#### **Section 9.05 – Application requirements**

The applicant shall submit nine (9) copies of a completed application, with associated fee, surveys, plans and data as required under Article 6: Site Plan Review, or other information deemed reasonably necessary for making any informed decision on his or her appeal, not less than thirty-one (31) days prior to the date of the hearing. (amended: August 4, 2009)

#### **Section 9.06 – Notice of Hearing**

- A. Following receipt of a written request concerning an appeal of an administrative decision, a request for an interpretation of the Zoning Ordinance or a request for a variance, the Zoning Board of Appeals shall hold a public hearing, after giving the following applicable notice:

1. For an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person filing the appeal and to the Zoning Administrator or other administrative agency or official whose decision is being appealed no less than fifteen (15) days before the public hearing.
2. For a request seeking an interpretation of the Zoning Ordinance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the interpretation no less than fifteen (15) days before the public hearing.
3. For a variance request, a notice stating the nature of the variance being requested and the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the variance no less than fifteen (15) days before the public hearing.
4. In addition to the above notice requirements, when the matter before the Zoning Board of Appeals involves a specific parcel, a notice stating the nature of the appeal, interpretation request, or variance being requested and the time, date, and place of the public hearing shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question.

#### **Section 9.07 – Variances**

- A. The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:
  1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
  2. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created). If a variance is requested from the slope regulations of this Ordinance, the need for the requested variance shall be deemed self created if the present lot on which the variance will apply was created after May 29, 2008 and an area on the lot that existed prior to the creation of the present lot permitted development in full compliance with the slope regulations of this Ordinance.
  3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
  4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.
  5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or Zoning District.



### **Section 9.08 – Conditions of Approval**

The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in **Section 10.03 –Conditions**.

### **Section 9.09 – Expiration of ZBA Approvals**

No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and substantial construction has occurred.

### **Section 9.10 – Reapplication**

No application for a variance, interpretation, or appeal which has been decided, in whole or in part, by the Zoning Board of Appeals shall be re-submitted for a period of one (1) year from the date of such decision, unless a rehearing is granted pursuant to **Section 10.04** of this Ordinance.

### **Section 9.11 – Stay**

An administrative appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to circuit court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the Circuit Court.

## **Article X – Administration and Enforcement**

### **Section 10.01 – Zoning Administrator**

- A.** The provisions of this Ordinance shall be administered and enforced by a Township Zoning Administrator, appointed by the Township Board of Trustees for such term and subject to such conditions and at such rate of compensation as said Board shall determine as reasonable.
- B.** The Zoning Administrator shall have the power to grant Zoning Permits and to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any Permits for excavation or construction until such plans have been inspected in detail and found to conform to this Ordinance.
- C.** The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties of the Zoning Administrator.
- D.** The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements that may occur upon the granting of said Permit.
- E. Duty to Inspect; Administrative Search Warrant.**  
It shall be the duty of the Zoning Administrator, or other official designated by the township board, to inspect land, buildings and/or structures to determine violations of or compliance with this Ordinance. The Zoning Administrator, or other official designation by the township board, shall exercise this right of inspection by consent of the person having the right to possession of the land, building and/or structure or any part thereof, or by administrative search warrant issued by a court of competent jurisdiction. (effective July 14, 2014)

### **Section 10.02 – Zoning Permit**

- A.** No building or structure subject to the provision of this Ordinance shall hereafter be erected, structurally altered, reconstructed, used or moved, nor shall any excavation, tree removal or filling of land commence until a Zoning Permit application has been filed with the Township Zoning Administrator and a Zoning Permit has been issued by the Zoning Administrator, except as otherwise provided for in this Ordinance. No Zoning Permit shall be required for any lawful uses of any building or structure in existence as of the effective date of this Ordinance. No Zoning Permit shall be required for an accessory structure less than 200 square feet in size, except: (1) located on waterfront within 100 feet of any lake, river, or stream; (2) low impact commercial recreational facilities as described in Section 8.18. (effective: June 14, 2012)
- B.** The application shall be signed by the owner of the premises or his authorized agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements will be complied with. Any application requiring approval from the Planning Commission shall be submitted not less than thirty-one (31) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:

1. A site plan, if required, or a plot plan in duplicate, in a scale sufficient to clearly detail, as determined by the Zoning Administrator, the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein; the size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, and those proposed to be erected and/or altered; the width and alignment of all abutting streets, highways, alleys, utility locations, easements and public open spaces; the front yard dimensions associated with the nearest building on both sides of the proposed building or structure; the location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration; and the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration.
  2. Properties under two (2) acres in size may be required to submit a legal survey, sealed by a professional surveyor (not a mortgage survey). The Zoning Administrator shall have the authority to require such a survey in cases where there may be encroachment on the setbacks by the proposed structures or when the exact locations of lot lines are not known.
  3. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator of this Ordinance.
  4. Such other information as may be required to determine compliance with the Ordinance.
- C. A Zoning Permit shall not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits issued by the Charlevoix County Department of Building Safety.
- D. The location of the property boundaries and all proposed structures shall be staked on the ground for Zoning Administrator approval prior to the issuance of the Zoning Permit.
- E. Any Zoning Permit under which substantial construction has not started or if no substantial construction has been done in furtherance of the Zoning Permit, the Zoning Permit shall expire after twelve (12) months from date of issuance.
- F. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
- G. No Zoning Permit shall be valid until the required fees have been paid. Except for accessory buildings or structures less than two hundred (200) square feet in size which do not require a Zoning Permit pursuant to Section 10.02.A of this Ordinance, no separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Board of Trustees. (effective: June 14, 2012)
- H. Upon issuance of the Zoning Permit, a copy of the permit and the application, including any drawings, shall be transmitted to the Township Assessor
- I. No Zoning Permit shall be issued for any lot serviced by a private road approved after April 1, 2009 unless that private road is certified as complete per the provisions of the Evangeline Private Road Ordinance. (amended: August 4, 2009)

### **Section 10.03 – Conditions**

- A. The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under their jurisdiction. These conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or

activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

#### **Section 10.04 – Rehearing Process**

**A. Final Decisions:** Except as provided in this section, a decision of the Planning Commission or Zoning Board of Appeals shall be final. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:

1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
3. The Township Attorney by written opinion states that in the Attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.

**B. Rehearing Procedure:** A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.

1. A request for a rehearing which is made by an applicant must be made within whichever of the following deadlines occurs first:
  - a. Thirty (30) days after the Planning Commission or Zoning Board of Appeals issues its decision in writing and signed by the Chairperson.
  - b. Twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address, or may be served personally on the applicant. The notice shall be served at least nine (9) days before the time set for the meeting if served by mail, or at least seven (7) days before the time set for the meeting if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a meeting at which it considers

- whether to grant a rehearing.
4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied

## **Section 10.05 – Fees**

- A. To assist in defraying the costs of investigating, reviewing and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may adopt by resolution a fee schedule establishing basic zoning fees, such as fees related to the following:
  1. Zoning permits.
  2. Special land use permits.
  3. Ordinance interpretations, appeals of administrative decisions, or requests for variances from the Zoning Board of Appeals. Appeals and requests for interpretation initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
  4. Classification of unlisted property uses.
  5. Requests to change a non-conforming use to another non-conforming use.
  6. Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
  7. Site plan reviews.
  8. Reserved for future use (effective April 21, 2010)
  9. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.
- B. The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.
- C. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary or advisable, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

### **Section 10.06 – Performance Guarantee**

**A.** In connection with the construction of improvements through site plan approval, special land use approval, or a PUD project the Planning Commission may require the applicant to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation, roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed in writing to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

1. One-third of the cash deposit after completion of one-third of the public and site improvements;
2. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
3. The balance at the completion of the public and site improvements.

**B.** Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

### **Section 10.07 – Nuisance per se**

Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

### **Section 10.08 – Inspection**

The Zoning Administrator shall have the duty to investigate each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.

### **Section 10.09 – Penalties**

**A.** Any person, partnership, limited liability company, corporation, association or other entity who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every day that such violation continues may constitute a separate and distinct offense under the provisions of

this Ordinance. Nothing in this section shall exempt the offender from compliance with provisions of this Ordinance or prohibit the Township from seeking additional and/or equitable relief from any court to ensure compliance with the provisions of this Ordinance.

- B. The Township Zoning Administrator is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court. The Township Board may also designate other officials to issue municipal civil infraction citations on behalf of the Township in connection with alleged violations of this Ordinance.
- C. In addition to or in lieu of enforcing this Ordinance, as a municipal civil infraction, the Township may initiate proceedings in any court of competent jurisdiction to abate, eliminate, or enjoin the nuisance per se or any other violation of this Ordinance.

#### **Section 10.10 – Stop Work Order**

- A. If construction or land uses are being undertaken in the absence of a zoning permit (if one is needed), or contrary to a zoning permit, the Michigan Zoning Enabling Act, or this Ordinance, the Zoning Administrator or deputy of the Zoning Administrator or any other official authorized by the Township Board is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the Ordinance.
- B. A person shall not continue, or cause or allow to be continued, construction or uses in violation of a stop work order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or by court order. If an order to stop work is not obeyed, the enforcing agency may apply to the Circuit Court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal or civil prosecution for failure to obey the order.

#### **Section 10.11 – Conflicting Regulations**

In the interpretation of this Ordinance, this Ordinance shall control unless there exists a conflict with any other Township Ordinances, in which case the more stringent regulations shall control.

## **Article XI – Adoption and Amendments**

### **Section 11.01 – Amendment to this Ordinance**

- A. The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.
1. The regulations and provisions stated in the text of this Ordinance and the boundaries of Zoning Districts shown on the Evangeline Township Zoning Map maybe amended, supplemented or changed by action of the Township Board following a recommendation from the Township Planning Commission.
  2. Proposals for amendments, supplements or changes may be initiated by the Township Board on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
  3. The procedure to be followed for initiating and processing an amendment shall be as follows:
    - a. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee as prescribed by the Township Board. No part of such fee shall be returnable to a petitioner upon the publication of the notice for the public hearing or mailing of the notices to neighboring property owners or occupants.
    - b. The Zoning Administrator shall notify, in writing, the Township Clerk and Chair of the Planning Commission at or before the time s/he transmits the amendment request to the Planning Commission.
    - c. The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.
    - d. Before ruling on any proposal the Planning Commission shall conduct at least one (1) public hearing, notice of the date, time, and place of which shall be given by one (1) publication in a newspaper of general circulation in the Township, and for a re-zoning of ten (10) or fewer adjacent parcels not less than fifteen (15) days before the date of such hearing and by notifying all property owners within three hundred (300) feet of any land proposed for rezoning and occupants of all structures within three hundred feet, not less than fifteen (15) days prior to the public hearing. Not less than fifteen (15) days' notice of the date, time, and place of the hearing shall also be given by mail to each public utility company and railroad within the zone affected who have registered to receive such notices. The notices shall include the places and times at which the tentative text and any map of the Zoning Ordinance may be examined and shall be verified by an affidavit of mailing or personal service.
    - e. If eleven (11) or more adjacent properties are proposed for re-zoning, a general notice of the public hearing on the matter shall be provided. Notice of the time and place of the public hearing, shall be given by publication in a newspaper of general circulation in the Township, not less than fifteen (15) days before the date of such hearing. (amended: August 4, 2009)



4. The Planning Commission shall review and apply the following standards and factors in the consideration of any re-zoning request.
  - a. Is the proposed rezoning consistent with the Evangeline Township Land Use Plan?
  - b. Is the proposed rezoning reasonably consistent with surrounding uses?
  - c. Will there be an adverse physical impact on surrounding properties?
  - d. Will there be an adverse effect on property values in the adjacent area?
  - e. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
  - f. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
  - g. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
  - h. Are there substantial reasons why the property cannot be used in accordance with its present zoning classification?
  - i. Is the rezoning in conflict with the planned use for the property as reflected in the Land Use Plan?
  - j. Is the site served by adequate public facilities or is the petitioner able to provide them?
  - k. Are there sites nearby already properly zoned that can be used for the intended purposes?
  - l. Are there other local remedies available?
5. Following the public hearing, the Planning Commission shall submit the proposed amendment, including any zoning map changes, to the County Planning Commission. If the recommendation of the County Planning Commission has not been received within thirty (30) days after the receipt of the proposed amendment by the County, it shall be conclusively presumed that the County has waived its right for review.
6. The Planning Commission shall submit a final report/recommendation to the Township Board along with a summary of the comments received at the public hearing.
7. The Township Board may hold additional public hearings if they decide it is necessary. Notice of such hearing shall be published in a newspaper, which circulates in the Township, not less than fifteen (15) days before the hearing. The Township Board may adopt or reject any proposed amendment, or refer it back to the Planning Commission for further review as prescribed by the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.
8. Once adopted by the Township Board, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Any amendments to this Ordinance shall take effect eight (8) days after publication or at a later date as may be specified by the Township Board at the time of adoption.
9. No application for a rezoning which has been denied by the Township shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found, upon inspection by the Township Planning Commission, to be valid.

**Section 11.02 – Enactment and Effective Date**

- A.** This Ordinance was adopted on May 13, 2008 by the Evangeline Township Board of Trustees and will be effective May 29, 2008. The foregoing Zoning Ordinance and Zoning Map were presented at a public hearing before the Planning Commission on April 15, 2008.
- B.** Text and/or map amendments or revisions to this Ordinance shall become effective eight(8) days after publication of a notice of adoption of said amendments or at a later date as specified by the Township Board.

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