EUREKA CHARTER TOWNSHIP

ZONING ORDINANCE

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Chapter 1, Title, Purpose, and Scope

SECTION 1.00 TITLE

A. This Ordinance shall be known as the "Eureka Charter Township Zoning Ordinance" and may be cited as "this Ordinance" or the "Zoning Ordinance" or the "Township Zoning Ordinance."

SECTION 1.01 PURPOSE

A. This Ordinance is enacted pursuant to Act 110 of 2006, as amended, and is established in accordance with the policies, goals, and objectives of the Township as expressed from time to time in the Eureka Charter Township Master Plan. The illustrations, text, maps, tables, and schedules contained herein shall constitute this Ordinance, which is adopted for the following purposes:

1. To promote and protect the public health, safety, and general welfare;
2. To encourage the use of lands and natural resources in accordance with their character and adaptability;
3. To establish standards for the form and arrangement of buildings, structures, and site improvements;
4. To implement the goals, objectives, and future land use recommendations of the Township Master Plan to regulate the intensity of land use and parcel areas in a manner compatible with said plan;
5. To determine the area of open spaces surrounding buildings and structures necessary to provide adequate light, scenic views, and air and to protect the public health;
6. To protect the character and stability of the agricultural, recreational, residential, commercial, and industrial areas within Eureka Charter Township and promote the orderly and beneficial development of the Township;
7. To lessen and avoid congestion on the public highways and streets;
8. To provide for the needs of agriculture, recreation, residence, commerce, and industry in future growth;
9. To prevent such additions or alterations or remodeling of existing structures in such a way as to avoid the regulations and limitations imposed hereunder;
10. To reduce the risk of fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards to life and property;
11. To prevent improper uses of land and the overcrowding of land and undue concentration of buildings and structures so far as is appropriate in each district;
12. To provide for the completion, restoration, reconstruction, and extension of nonconforming uses;

13. To create an appeals board and to define the powers and duties thereof;
14. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this ordinance and provide penalties for the violation of this ordinance;
15. To provide for the payment of fees for land use permits and escrow accounts to support the expense of administration and proper review of applications for zoning permits;
16. To ensure that a variety of housing types and sizes can be developed to meet the needs of the entire community;
17. To preserve and protect the Township's wetlands, ravines, rivers, and other natural spaces; and
18. To accomplish any other purposes contained in Public Act 110 of 2006, as amended.

SECTION 1.02 SCOPE

A. Generally – This Ordinance shall affect and regulate the use and occupancy of all lands and every structure, building and activity in the Township. In its interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements adopted for the promotion of the public health, safety, and general welfare. It is not intended by this Ordinance to impair or interfere with any other existing provision of law or Ordinance. However, where this Ordinance imposes a greater restriction than is required by another existing Ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control. In the event of conflicting provisions or regulations within this Ordinance, the more restrictive provision or regulation shall control.

B. Vested Rights – Approvals granted to projects in progress or under construction under the previous Eureka Charter Township Zoning Ordinance shall be valid and enforced under the ordinances that were applicable at the time of approval until such development is complete or such approval has expired. Once a site plan or other approval is completed or has expired, any subsequent submittal shall conform with the terms of this Ordinance. The adoption of this Ordinance shall not prevent or bar the continuation or institution of proceedings for offenses heretofore committed in violation of any previously existing ordinances.

C. Allowed Uses – If a particular structure, building, use or activity is not expressly authorized in the particular zoning district involved (whether listed as a permitted use or with approval as a special land use), then it is not permitted or allowed within that district.

D. Zoning Affects All Structures, Activities, Land and the Use Thereof – No structure, land or premises shall hereafter be used or occupied, no activity shall occur and no structure or building shall be erected, moved, used, reconstructed, extended or altered except in full conformity with the regulations and provisions of this Ordinance.

Chapter 2, Definitions

SECTION 2.00 CONSTRUCTION OF LANGUAGE

The following rules apply to the text of this Ordinance:

A. The particular shall control the general.

B. In the case of any difference in meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

D. Words used in the present tense shall include the future, words used in the singular shall include the plural, and the plural shall include the singular unless the context clearly indicates the contrary.

E. A "building" or "structure" includes any part thereof.

F. The word "person" includes any individual, corporation, firm, partnership, joint venture, trust, incorporated association, or a combination thereof, or any other similar entity.

G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:

   1. "And" indicates that all connected items, conditions, provisions, or events shall apply.

   2. "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.

   3. "Either…or" indicates that the connected items, conditions, provisions, or events shall apply singularly but not in combination.

H. Terms not herein defined shall have the meaning customarily assigned to them.

SECTION 2.01 A

ACCESSORY OR ACCESSORY USE – A use of a lot which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces, or loading) located on the same lot as the principal use to which it is related. When "accessory" is used in this text, it shall have the same meaning as accessory use.

ACCESSORY BUILDING – A building that is located on the same lot as and supplementary to the main building, or part of the main building, occupied by or devoted exclusively to an accessory use, including but not limited to, the storage of goods and materials owned by the occupant of the principal building, private garages, carports, and sheds. When an accessory building is attached to the main building in a substantial manner (such as a wall or roof), the accessory building shall be considered part of the main building for setback purposes.

ACCESSORY DWELLING UNIT (ADU) – A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is fully and integrally attached to an existing single-family dwelling. ADUs are also known as "mother-in-law apartments" or "bunk houses."

ACCESSORY STRUCTURE – A structure that is clearly subordinate or incidental to a principal structure or principal use on the same lot. Accessory structures include, but are not limited to, greenhouses, decks, gazebos, school bus stop shelters, and similar structures.

ADULT DAY CARE FACILITY – A facility providing daytime care for any part of a day but less than 24 hours, for functionally impaired elderly persons and is provided through a structured program of social and rehabilitative and/or maintenance services in a supportive group setting other than the client's home.

ADULT FOSTER CARE FACILITY – A governmental or non-governmental building having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults, who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care does not include any of the following:

A. Nursing homes and hospitals licensed Article 17 of Act 368 of the Public Acts of 1978, as amended;

B. Hospitals for persons with mental disabilities or a facility for the developmentally disabled operated by the department of mental health under Act 258 of the Public Acts of 1974, as amended;

C. County infirmary operated by a county department of social services under section 55 of Act 280 of the Public Acts of 1939, as amended;

D. A child care institution, children's camp, foster family home, or foster family group home licensed or approved under Act 116 of the Public Acts of 1973, as amended;

E. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care; and

F. A veteran's facility created by Act 152 of the Public Acts of 1885, as amended

ADULT FOSTER CARE FAMILY HOME – An adult foster care facility that is a private residence with the approved capacity to receive at least 3 but not more than 6 adults to be provided supervision, personal care, and protection, in addition to room and board, for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

ADULT FOSTER CARE SMALL GROUP HOME – An adult foster care facility with the approved capacity to receive at least 3 but not more than 12 adults to be provided supervision, personal care, and protection, in addition to room and board, 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks.

ADULT FOSTER CARE LARGE GROUP HOME – An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection, in addition to room and board, 24 hours a day, 5 or more days a week, for 2 or more consecutive weeks.

ADULT FOSTER CARE CONGREGATE FACILITY – An adult foster care facility with the approved capacity to receive more than 20 adults to be provided supervision, personal care, and protection, in addition to room and board, 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks.

ADULT USE – An enclosed building used for an adult bookstore, adult live entertainment theater, massage parlor, or adult motion picture theater, as hereinafter defined:

A. ADULT BOOKSTORE – An enclosed building used for the sale of motion picture films, video cassettes, magazines, posters, and other printed material or tapes, or sex objects for other than contraceptive purposes, distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" as defined in this Ordinance, for sale, lease or gift to patrons therein.

B. ADULT ENTERTAINMENT FACILITY – An enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see-through clothing which permits the view of "specified anatomical areas", individuals who are partially clothed and partially unclothed so as to permit the view of "specified anatomical areas", or individuals conducting "specified sexual activities".

C. ADULT MOTION PICTURE THEATER – An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Ordinance, for observation by patrons therein.

D. 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 scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, or athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:

    1. Proof of graduation from a school of massage licensed by the State of Michigan;
    2. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or
    3. A current occupational license from another state.

E. SPECIFIED ANATOMICAL AREAS

    1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
    2. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

F. SPECIFIED SEXUAL ACTIVITIES

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

AIRPORT – Any location which is used for the landing or taking off of aircraft, which provides facilities for the shelter, supply, or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or acquired for airport buildings or other airport facilities, and all appurtenant rights-of-way, either heretofore or hereafter established.

ALLEY – Any dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATIONS – Any change, addition, or modification in construction, composition, or type of use or occupancy, or in the structural members of a building, such as walls or partitions, columns, beams, or girders.

ANIMAL DAY CARE FACILITY – A facility providing such services as animal day care for all or part of a day, obedience classes, training, grooming, or behavioral counseling, provided that overnight boarding is not permitted.

ANIMAL GROOMING SERVICE – Any property, structure, building, or premise in or on which pets and other domesticated animals are bathed and/or groomed for commercial gain, but excluding any veterinary or clinical services.

ART GALLERY – An establishment in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public. An art gallery does not include libraries or museums.

ASSISTED LIVING CENTER – A building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons 60 years of age or older, or couples residing together where either person is 60 years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under Act No.139 of the Public Acts of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

AUTOMOBILE GASOLINE STATION – Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels and convenience items; and which may include as an accessory use the servicing and repair of automobiles and the sale and installation of lubricants, tires, batteries, and similar vehicle accessories; but which does not include an automobile service center.

AUTOMOBILE SALES FACILITY – An open air business selling new or pre-owned motor vehicles.

AUTOMOBILE SERVICE AND REPAIR FACILITY, MAJOR – An establishment engaged in the general repair, engine rebuilding, transmission rebuilding, overhaul or reconditioning of motor vehicles; collision

repair services, such as body, frame, or fender straightening and repair; major welding activities; and overall painting and undercoating of automobiles.

AUTOMOBILE SERVICE AND REPAIR FACILITY, MINOR – An establishment engaged in the general mechanical repair and maintenance of passenger automobiles and trucks weighing less than seven thousand (7,000) pounds, including muffler repair, suspension, and brake repair, upholstery repair, oil change, and general lubrication service, and tire service, but not including major automobile repair.

AUTOMOBILE WASH – Any building or premises or portions thereof used for the commercial washing automobiles.

AVERAGE GRADE – See Grade, Average.

SECTION 2.02 B

BAKERY – An establishment primarily engaged in the retail sale of baked products for consumption on or off-site. The products may be prepared either on or off-site and may include incidental food service.

BASEMENT – That portion of a building that is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story. (See Figure 2.1)

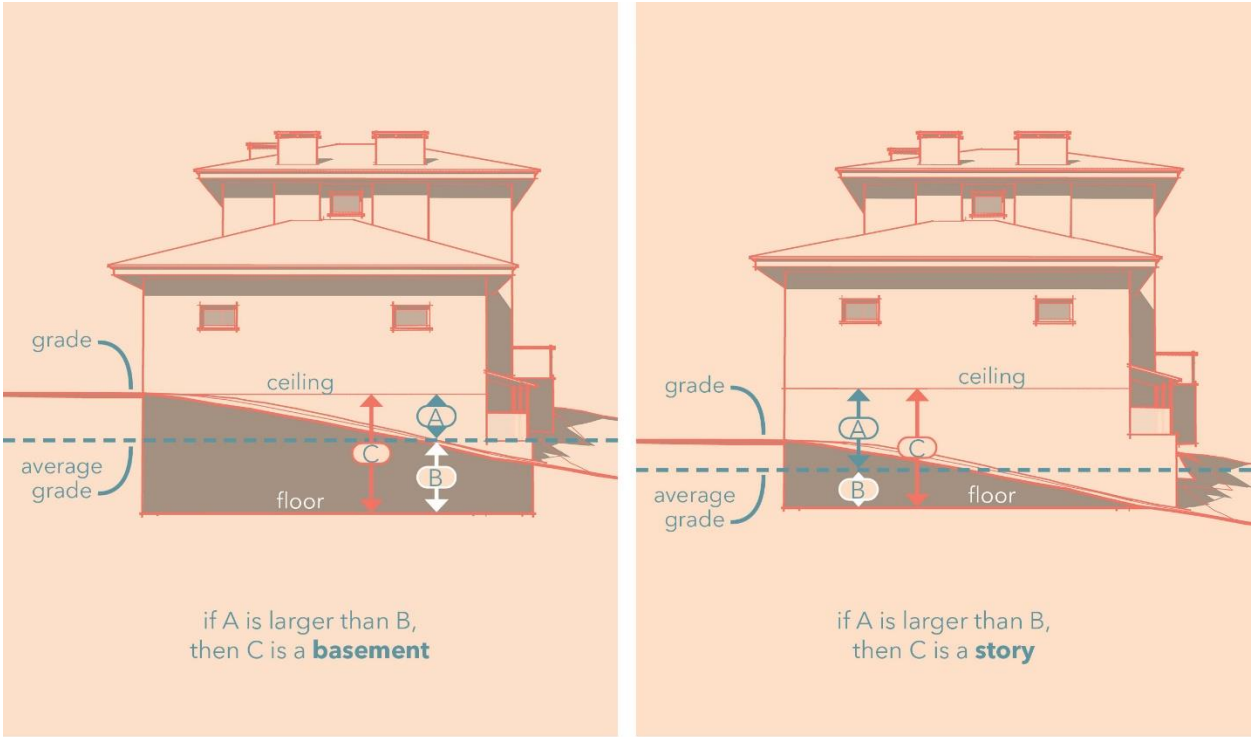


FIGURE 2.1 BASEMENT & STORY

BED AND BREAKFAST INN – A owner-occupied single-family dwelling house, or portion thereof, where short-term lodging rooms and meals are provided to transients for compensation, for periods no longer than 14 days, and operated as a commercial business.

BERM – A mound of earth graded, shaped, and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

BLOCK – The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

BLUFF – A bank that rises at a slope of 33 degrees or greater from within 10 feet of the river's edge. The crest of the bluff is the first riverward facing area (approximately parallel to the river) that breaks to a slope of less than 18 degrees for a distance away from the river of at least 25 feet. If an existing flat area begins at the water's edge before rising into the bank, the bluff setback does not apply.

BUFFER ZONE – A strip of land of definite width and location required between certain Zoning Districts reserved for the planting of shrubs, trees, or grasses; berms; walls; or fencing to serve as a visual and noise barrier or an obscuring screen necessary to carry out the requirements of this Ordinance.

BUILDING – A structure, either temporary or permanent, having a roof supported by columns or walls, and designed primarily for the shelter, support, or enclosure of persons, animals, equipment, goods, or materials of any kind. Also, a structure erected or placed on-site, a mobile home or mobile structure, a premanufactured or precut structure, above or below ground, designed primarily for the shelter, support, or enclosure of persons, animals or property of any kind.

BUILDING CODE – The code or codes governing the erection and maintenance of buildings as currently adopted by Eureka Charter Township/State of Michigan.

BUILDING ENVELOPE – The three-dimensional space within which a structure may be built on a lot and that is defined by the maximum height regulations and minimum yard setbacks. (See Figure 2.2)

BUILDING FOOTPRINT – The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building, exclusive of unroofed porches, terraces, patios, decks, steps, awnings, and nonpermanent canopies. (See Figure 2.2)

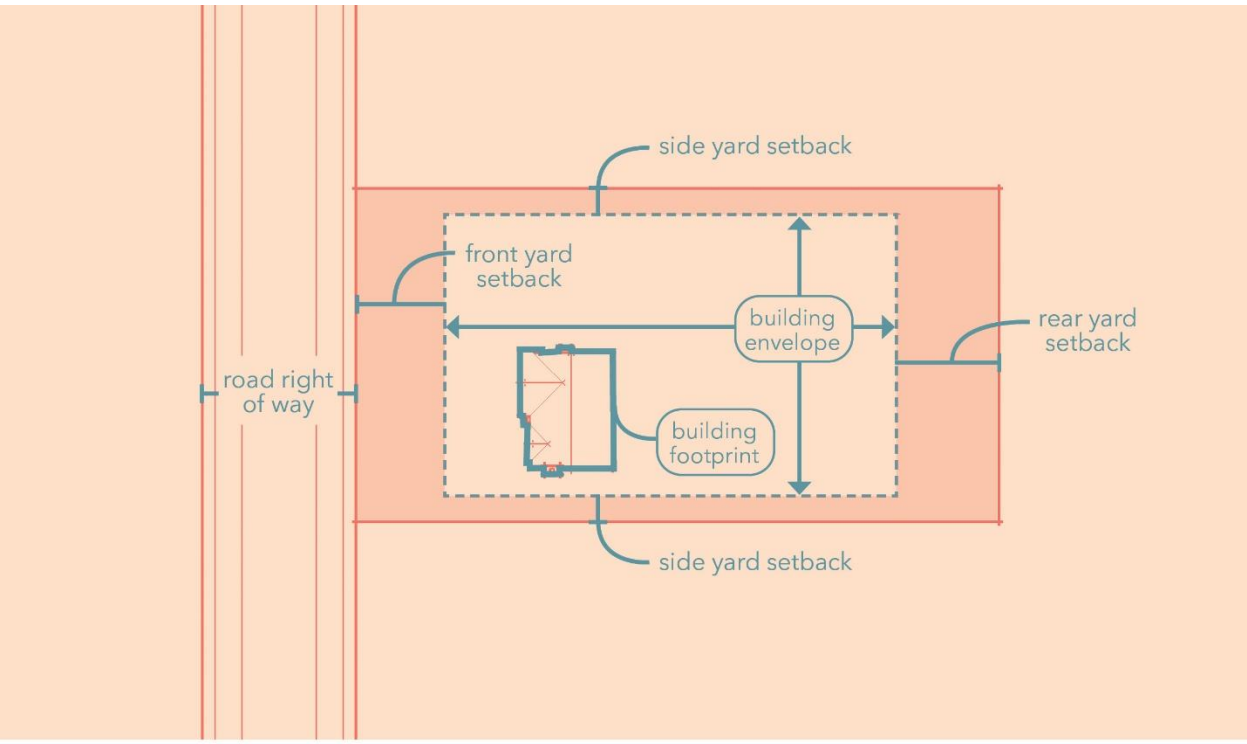


FIGURE 2.2 BUILDING ENVELOPE & FOOTPRINT

BUILDING LINE – The outermost wall of the building foundation. (See Figure 2.10)

BUILDING MATERIALS SALES AND STORAGE – An establishment primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, including but not limited to building material stores and home supply establishments.

BUILDING OFFICIAL – The party designated by Eureka Charter Township to administer the provisions of the adopted Building and Fire Code for the Township.

SECTION 2.03 C

CAMPGROUND – Any parcel or tract of land under the control of any person, organization, or governmental entity, wherein sites are offered for the use of the public or members of any organization for the establishment of temporary living sites generally for recreational purposes through the use of tents or recreational vehicles.

CEMETERY AND/OR CREMATORIUM – Grounds and facilities including any one or a combination of more than one of the following: a burial ground for earth interment; a mausoleum for crypt entombment; a crematory for the cremation of human remains; and a columbarium for the deposit of cremated remains.

CERTIFICATE OF OCCUPANCY – A document signed by an authorized Township official as a condition precedent to the commencement of a use or the occupation of a structure or building which

acknowledges that such use, structure, or building complies with the provisions of the Zoning Ordinance and Building Code.

CHILD CARE CENTER – A facility other than a private residence, licensed by the Michigan Department of Social Services, in which one or more preschool or school-age children are given care and supervision for periods of less than 24 hours per day, and where a parent or legal guardian is not immediately available to the child. Child care center includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:

A. A Sunday school, a vacation Bible school, or a religious class that is conducted by a religious organization where children are in attendance for not greater than four hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks during a 12-month period.

B. A facility operated by a religious organization where children are cared for not greater than four hours while persons responsible for the children are attending religious classes or services.

CHILD CARE FAMILY HOME – A private residence in which the operator permanently resides as a member of the household, registered with the Michigan Department of Social Services, in which one but less than seven minor children are given care and supervision for periods of less than 24 hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

CHILD CARE GROUP HOME – A private residence in which the operator permanently resides as a member of the household, licensed by the Michigan Department of Social Services, in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to unrelated minor children for more than four weeks during a calendar year.

CLUB OR LODGE – An organization of persons, or their location thereof, for special purposes such as sports, arts, sciences, literature, politics, or the like, but not operated for profit.

COMPASSION CLUB OR MEDICAL MARIHUANA DISPENSARY – Any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marihuana is made available to be sold, delivered, transmitted, dispensed, or distributed by or to one or more of the following:

A. A primary caregiver (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 et seq., as amended.)

B. A qualifying patient (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 et seq., as amended.)

C. Members of the general public.

A medical marihuana dispensary (compassion club) shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marihuana is smoked or consumed, where either three or more persons are present and smoking or consuming medical marihuana, or where one or more persons are present and smoking or consuming medical marihuana and such medical marihuana smoking or consumption is occurring on the property of a business, association, cooperative, or commercial operation or facility, or on a public or governmental property.

A medical marihuana dispensary (compassion club) does not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five(5) qualifying patients (as defined by Michigan Initiated Law I of 2008, as amended (being MCL 333.26421 et seq. as amended), so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and is done in full compliance with Eureka Charter Township and Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 et seq., as amended.

CONTRACTOR'S ESTABLISHMENT – A facility, building, structure, grounds, or portion thereof used to store tools, trucks, equipment, supplies, resources, and materials used by building construction professionals, contractors, and subcontractors. Such facilities typically will include outdoor storage, assembly, or staging areas.

CONVALESCENT OR NURSING HOME – A residential care facility providing long-term care on a full-time basis for elderly, infirm, terminally-ill, physically, emotionally, and/or developmentally disabled persons, including meals, nursing, and medical care, and which is licensed in accord with Article 17 of Act 368 of 1978, as amended.

SECTION 2.04 D

DISTRICT (OR ZONING DISTRICT) – A zoning district as listed or described in Chapter 5 of this Ordinance.

DRIVE-THROUGH OR DRIVE-THROUGH FACILITY – A principal use or accessory use of a commercial establishment that utilizes a driveway approach and service windows or facilities for vehicles in order to serve patrons while in or momentarily stepped away from the vehicle.

DRIVEWAY - An improved or unimproved path or road extending from a public right-of-way or private road easement to a single building, dwelling, or structure, intended to provide ingress and egress primarily for the occupants thereof. A driveway is located entirely upon the lot which it serves.

DUMPSTER – A container used for the temporary storage of rubbish and/or materials to be recycled pending collection, having a capacity of at least one cubic yard.

DWELLING – A building or portion thereof that is used exclusively for human habitation and which provides complete living facilities, including permanent provisions for sleeping, eating, cooking, and sanitation.

DWELLING, MULTIPLE FAMILY – A dwelling designed or used exclusively for occupancy by three or more families living independently of each other in individual, attached dwelling units.

DWELLING, SINGLE FAMILY– A dwelling designed exclusively for and occupied exclusively by one family and that is not attached to any other dwelling by any means.

DWELLING, TWO-FAMILY – A dwelling designed or used exclusively for occupancy by two families living independently of each other in individual, attached dwelling units.

SECTION 2.05 E

EATING AND DRINKING ESTABLISHMENT – A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, lunch counters, refreshment stands, and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.

EDUCATIONAL FACILITY – A public, private, or parochial school offering instruction at the elementary, junior, and/or senior high school levels, or colleges or universities, in the branches of learning and study required to be taught in the public schools of Michigan.

ERECTED – Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and similar activities.

ESSENTIAL PUBLIC SERVICES – The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission, distribution, collection, communication, supply or disposal systems, including towers, poles, street lighting, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm, and police call boxes, street lights, traffic signals, hydrants, and similar equipment, but not including buildings and storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. This definition does not include Wireless Communication Facilities. Landfill operations are specifically excluded, as are buildings, water systems (public or private) serving more than three dwellings, and sewage systems (public or private) serving more than three dwellings.

EVENT VENUE - A facility or property made available on a lease or rental basis as a venue for events that are open on an invitation-only basis, such as weddings, receptions, birthday or anniversary parties, graduation open houses, or bridal or baby showers.

EXCAVATION – Any breaking of ground, except common household gardening and ground care.

SECTION 2.06 F

FAMILY – An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children, domiciled together whose relationship is of a continuing, non-transient, domestic character and who are cooking and living together as a single, nonprofit housekeeping unit. Also, a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, boarding house, coterie, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school

term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

FARM – The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

FARM OPERATION – The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:

A. Marketing produce at roadside stands or farm markets.

B. The generation of noise, odors, dust, fumes, and other associated conditions.

C. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

D. Field preparation and ground and aerial seeding and spraying.

E. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.

F. Use of alternative pest management techniques.

G. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling, and care of farm animals.

H. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.

I. The conversion from a farm operation activity to other farm operation activities.

J. The employment and use of labor.

FARM MARKET – A year-round or seasonal location where transactions and marketing activities between farm market operators and customers take place. While the location must take place on property controlled by the affiliated farm, it does not have to be a physical structure such as a building. Fresh products, as well as processed products, may be sold at the farm market. At least 50 percent of the products offered must be produced on and by the affiliated farm measured by retail floor space during peak production season, or 50 percent of the average gross sales for up to the previous five years or as outlined in a business plan. Processed products will be considered as produced on and by the farm if at least 50 percent of the product's primary or namesake ingredient was produced on and by the farm, such as apples used in apple pie, maple sap in maple syrup, strawberries in strawberry jam, etc.

FINANCIAL INSTITUTION – Any building wherein the primary occupation is concerned with such federal or state-regulated businesses as banking, savings and loans, loan companies, and investment companies.

FLOOR AREA, GROSS (GFA) – The sum of the horizontal areas of the several floors of a building or structure on a lot, measured from the exterior faces of exterior walls, or from the centerline of a wall separating two buildings. (See Figure 2.3)

FLOOR AREA, USABLE (UFA) – The sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls; including those areas used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers; and not including those areas which are used or intended to be used principally for parking, the storage or processing of merchandise, hallways, or for utilities or sanitary facilities. (See Figure 2.3)

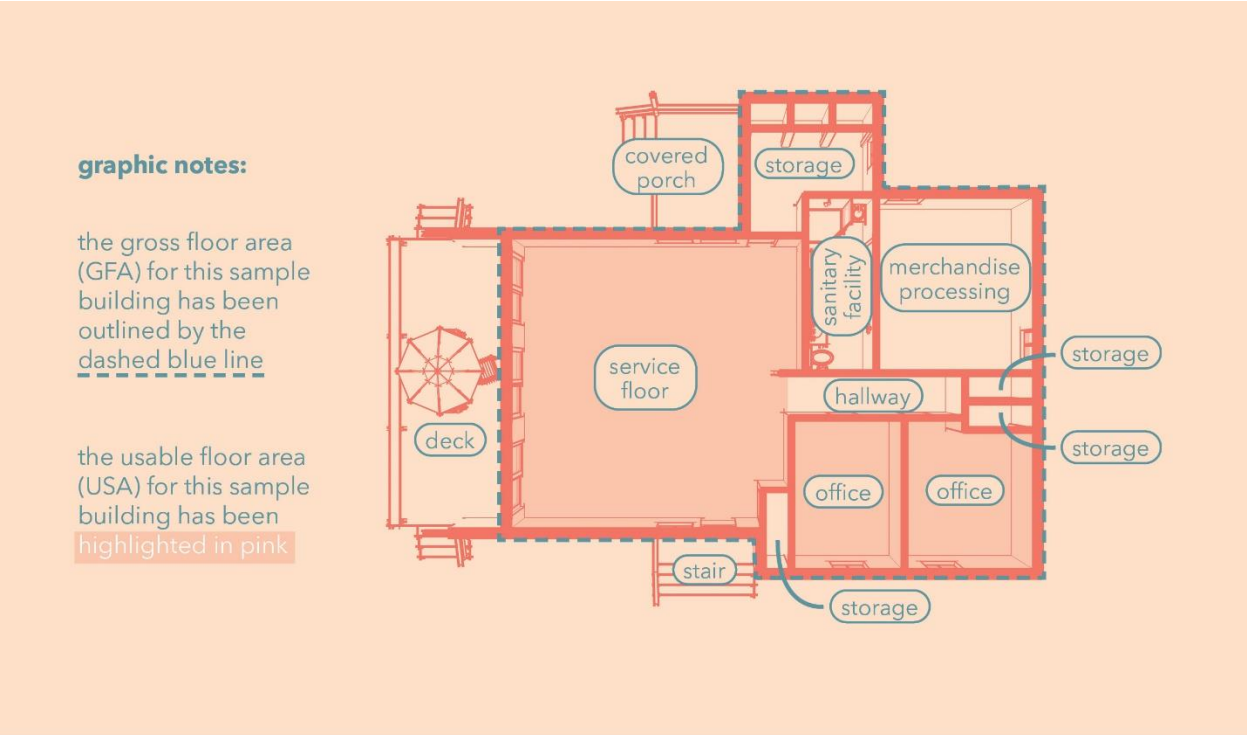


FIGURE 2.3 FLOOR AREA

FOOD TRUCK - A business serving or offering for sale food and/or beverages from a truck, trailer, van, or similar mobile food unit that is a self-contained, fully enclosed unit, including trailers.

FRONTAGE – For purposes of street or road frontage, that portion of a lot which fronts and abuts a lawful road or street. For purposes of lake, stream, or other water frontage, that portion of a lot which fronts and abuts the lake, stream, or other body of water.

FUNERAL HOME – A facility used for the preparation of the deceased for burial, visitation, and the conduct of memorial and funeral services.

SECTION 2.07 G

GARAGE, PRIVATE – A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and other storage incidental to a residential use such as rakes, lawnmowers, garbage cans, etc., and that is not a separate commercial enterprise available to the general public.

GOLF COURSE – A tract of land laid out for at least nine (9) holes for playing the game of golf and improved with tees, greens, fairways, and hazards and that may include a clubhouse, driving range, pro shop, shelter, and related accessory uses.

GOVERNMENT BUILDING – The official offices of any department, commission, independent agency, officer, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district, or other governmental unit.

GRADE – The gradient, the rate of incline or decline expressed as a percentage. For example, a rise of 25 feet in a horizontal distance of 100 feet would be expressed as a grade of 25%.

GRADE, AVERAGE – The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured. (See Figure 2.4)

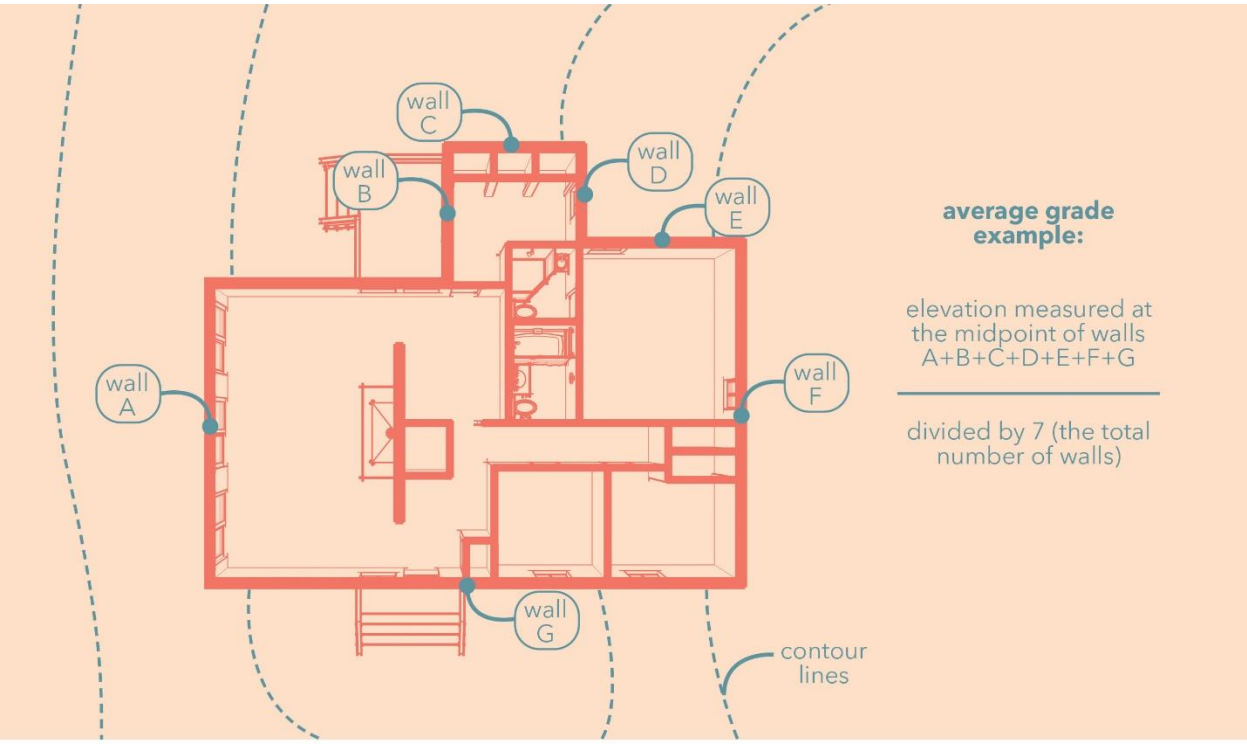


FIGURE 2.4 AVERAGE GRADE

GREENBELT – A strip of land of definite width and location reserved for the planting of shrubs, trees or grasses to serve as an obscuring screen in carrying out the requirements of this Ordinance.

GREENHOUSE – A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants, but excluding medical marihuana, for subsequent sale, distribution, or for personal enjoyment.

SECTION 2.08 H

HEIGHT – The vertical distance measured from the average grade to the highest point of a structure. In the case of a building, height shall be measured from the average grade to the highest point of the roof surface for a flat roof, to the deck line of mansard roofs, and to the midpoint between the eaves and ridge for gable, hip, and gambrel roofs. (See Figure 2.5)

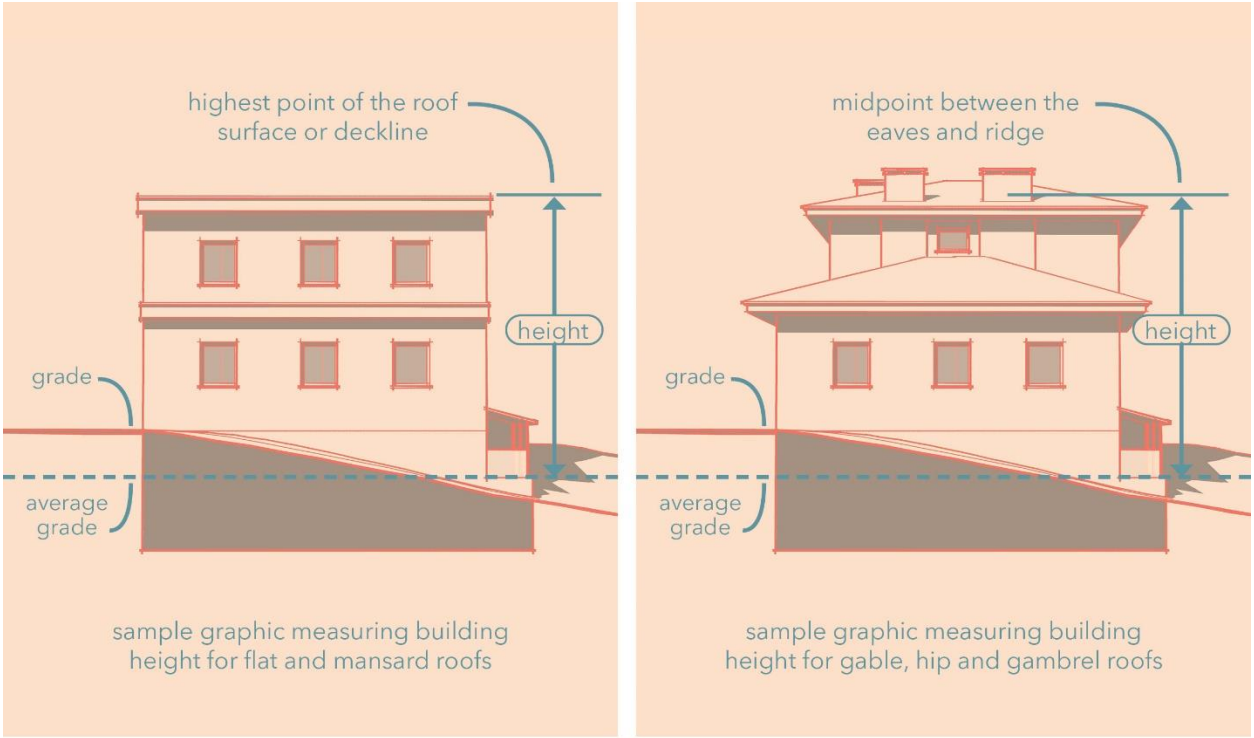


FIGURE 2.5 HEIGHT

HOSPITAL – A facility providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices which are an integral part of the hospital facility.

HOTEL/MOTEL – A facility offering transient lodging accommodations for travelers at a daily rate to the general public and which may or may not provide additional services such as restaurants, meeting rooms, or recreational facilities.

SECTION 2.09 I

INDOOR RECREATION FACILITY – A permanent building containing facilities for recreational activities, such as tennis, bowling, billiards, platform games, swimming, exercise rooms, handball, and similar activities.

INOPERABLE VEHICLE – A motor vehicle that can no longer propel itself and/or is not legal to operate on a public road.

SECTION 2.10 J

JUNK – Any worn out or discarded materials including but not limited to scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage, discarded appliances, and yard debris.

JUNKYARD OR SALVAGE YARD – An open area where waste, used, or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled. These materials include, but are not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings.

SECTION 2.11 K

KENNEL – Any lot or premises on which three (3) or more dogs over the age of four months old are either permanently or temporarily boarded or trained for remuneration.

SECTION 2.12 L

LAUNDROMAT – A commercial establishment providing dry cleaning and laundry services on-site for businesses and residents, but which does not include a dry cleaning plant.

LOADING SPACE – An off-street space on the same lot with a building or group of buildings for the temporary parking of a vehicle while loading and unloading merchandise or materials.

LOT – A parcel of vacant or occupied land, land intended to be occupied by a building and accessory buildings, or land utilized for principal accessory uses together with setbacks, yards, and open spaces as required by this Ordinance. A lot shall also mean a portion of a condominium project, as regulated by Public Act 215 under the Michigan Public Acts of 1978, as amended, designed and intended for separate ownership as use. The definition of “Lot” shall also include any parcel, platted lot, metes and bounds parcel, or site condominium unit. Land separated by a public or private road or street shall be considered separate lots for the purposed of this Ordinance.

LOT, CORNER – Any lot having at least two contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees. (See Figure 2.6)

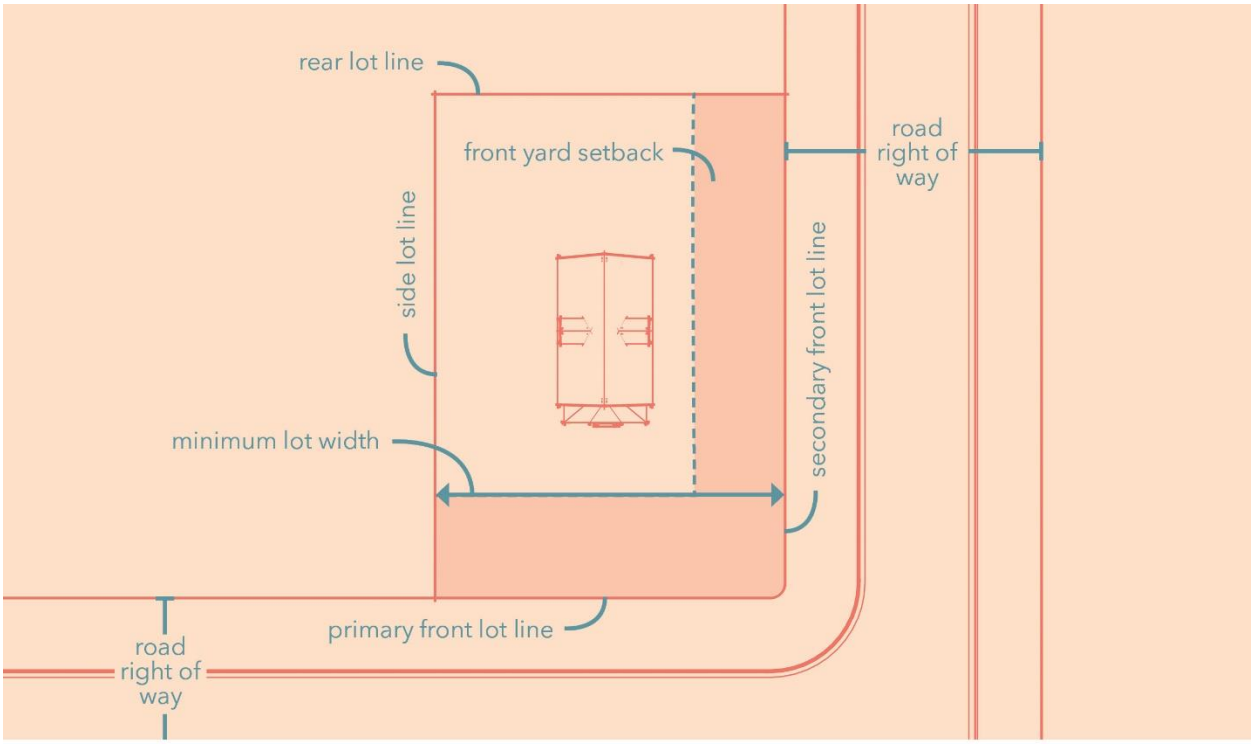


FIGURE 2.6 CORNER LOT

LOT, CUL-DE-SAC – A lot having more than one-half of its required frontage on a cul-de-sac street right-of-way line.

LOT, INTERIOR – A lot other than a corner, cul-de-sac, or through lot. (See Figure 2.7)

LOT, THROUGH – Any interior lot having frontage on two parallel streets. In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and through yard setbacks shall be provided as required. (See Figure 2.7)

LOT AREA – The total horizontal area within the lot lines.

LOT COVERAGE – The part of the lot, measured as a percentage of the total lot area, occupied by any building, including accessory buildings.

LOT DEPTH – The horizontal distance between the front and rear lot lines, measured from the midpoint of the front lot line to the midpoint of the rear lot line, or to the rear most point of the lot where there is no rear lot line. (See Figure 2.8)

LOT LINES – The lines bounding a lot as defined herein:

A. FRONT LOT LINE – In the case of an interior lot, is that line separating the lot from the street right of way.

   1. In the case of a through lot, the line separating said lot from either street right of way.

   2. In the case of a corner lot, there shall be a primary front lot line and a secondary front lot line. The front lot line shall be the shorter of the two lot lines adjacent to a street, provided, however, where a front lot line has been established by the erection of a structure, such front lot line shall take precedence. In the case of the two front lot lines being of equal length, the Zoning Administrator shall determine the front lot lines, and once determined, shall remain as such. (See Figure 2.7)

B. REAR LOT LINE – That lot line opposite the front lot line. In the case of a corner lot, the rear lot line shall be opposite the primary front lot line. In the case of a lot that is pointed in shape at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet long, lying farthest from the front lot line and wholly within the lot. (See Figure 2.7)

C. SIDE LOT LINE – Any lot line other than the front lot line or rear lot line. In the case of a corner lot, the side lot line shall be opposite the secondary front lot line. A side lot line separating a lot from another lot is an interior side lot line. (See Figure 2.7)

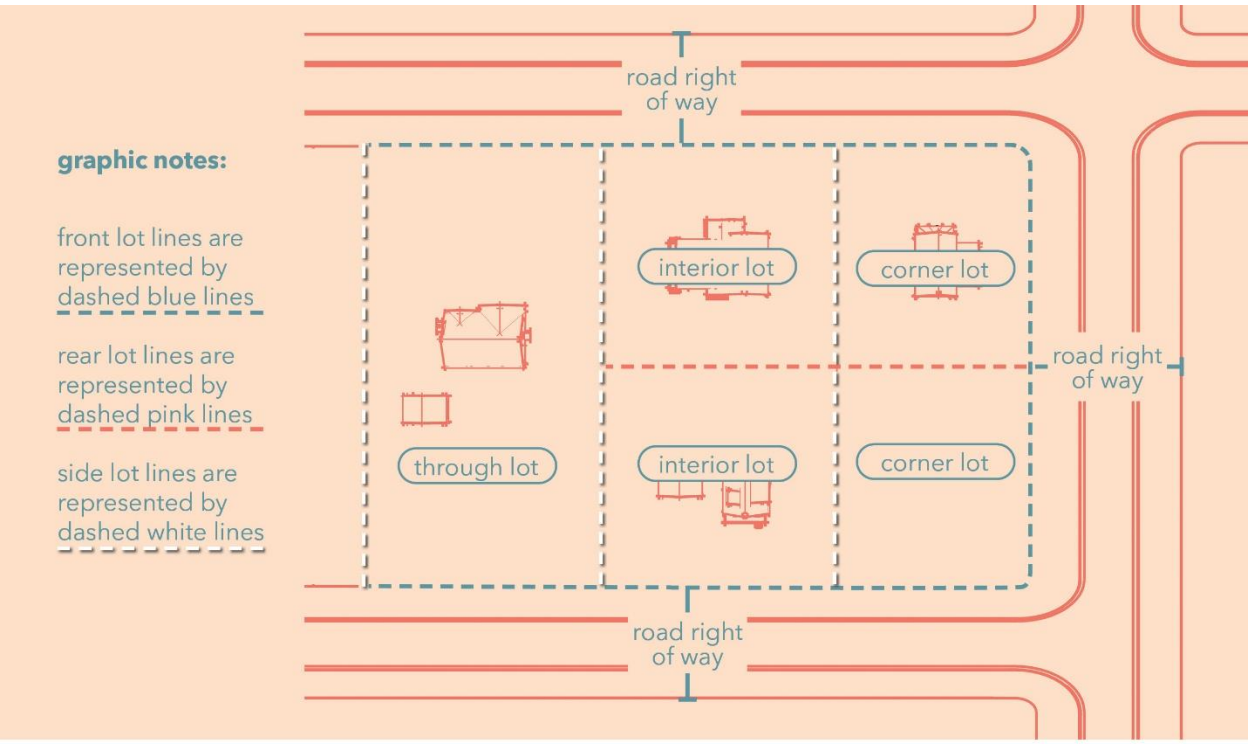


FIGURE 2.7 LOT TYPES & LOT LINES

LOT OF RECORD – A lawful parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by township or county officials which actually exists as shown and was lawful when created, or any part of such parcel held in a record of ownership separate from that of the remainder thereof.

LOT WIDTH (FRONTAGE) – The horizontal straight-line distance between the side lot lines, measured between the two points where the front setback intersects the side lot lines. (See Figure 2.8)

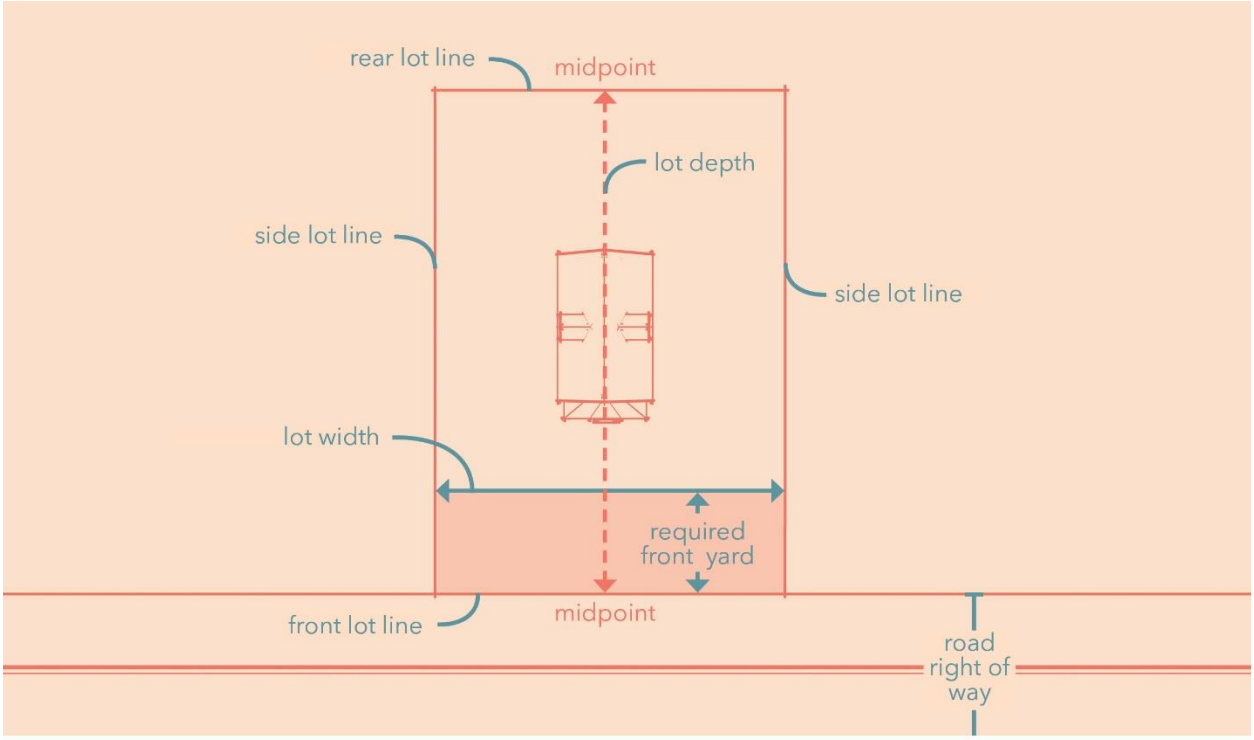


FIGURE 2.8 LOT WIDTH & DEPTH

SECTION 2.13 M

MACHINE SHOP – An enclosed establishment where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used, including but not limited to, a blacksmith, tin-smith, welding, and sheet metal shops.

MAIN BUILDING – A building in which is conducted the principal use of the lot upon which it is situated.

MANUFACTURED OR MOBILE HOME – A transportable, factory-built, structure that is building on a permanent chassis and designed to be used as a year-round residential dwelling with or without a permanent foundation, that is connected to required utilities, is manufactured or constructed under the authority of the National Manufactured Home Construction and Safety Standards Act, and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan statute, and administrative rules promulgated thereunder.

MANUFACTURED OR MOBILE HOME PARK – A parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made thereof, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a manufactured home and is not intended for use as a temporary trailer park.

MANUFACTURING, PROCESSING, AND/OR ASSEMBLY, SMALL – An enclosed establishment less than 40,000 square feet in area engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, usually in a continuous and regular action or succession of actions.

MANUFACTURING, PROCESSING, AND/OR ASSEMBLY, LARGE – An enclosed establishment 40,000 square feet in area or greater engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, usually in a continuous and regular action or succession of actions.

MASTER PLAN – The Master Plan currently adopted by Eureka Charter Township, including graphic and written proposals, indicating the general location for streets, parks, schools, public buildings and all physical development of the Township and includes any unit or part of such plan and any amendment to such plan.

MEDICAL OFFICE – A facility in which medical, health, and related providers maintain offices and provide services to patients on an outpatient basis.

MINING – The removal, loading, processing, and/or transporting of topsoil, sand, gravel, or other such minerals on, to, or from a lot, tract, or parcel, in excess of 1,000 cubic yards per year, and including the incidental maintenance of machinery or equipment used in connection with such mining operation. Minor alterations of the grade elevation by cutting or filling earth for noncommercial purposes, such as preparing a plot for construction, shall not be considered a mining operation.

MINI-STORAGE FACILITY – A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

SECTION 2.14 N

NONCONFORMING STRUCTURE OR BUILDING – A building, structure, or portion thereof lawfully existing at the effective date of this Ordinance or applicable amendments thereto, which thereafter does not conform to the provisions of the Zoning Ordinance or the district in which it is located.

NONCONFORMING LOT OF RECORD – A lot of record lawfully existing at the effective date of this Ordinance or amendments thereto, which thereafter does not conform to the provisions of the Zoning Ordinance or the district in which it is located or other applicable zoning regulations.

NONCONFORMING USE – A use or activity which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto, which thereafter does not contain a use of land permitted by this Ordinance or the district in which it is located.

NURSING HOME – A residential care facility providing long-term care for elderly, infirm, terminally-ill, physically, emotionally and/or developmentally disabled persons, licensed in accord with Article 17 of Act 368 of 1978, as amended.

SECTION 2.15 O

OFF-STREET PARKING LOT – A facility providing parking spaces along with adequate drives, maneuvering areas, and aisles so as to provide access for entrance and exit and for the parking of more than three vehicles.

OPEN AIR BUSINESS – A permanent business including the sales and/or display of retail merchandise or services outside of a permanent structure including, but not necessarily limited to:

A. Bicycle, utility truck or trailer, motor vehicle, boat or home equipment sales, repair, storage, or rental services.

B. Outdoor display area, storage, or sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools, and similar activities, but not including farm implements or commercial construction equipment.

C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment, but not including lumber yards.

D. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement parks, or similar recreational uses (transient or permanent).

OUTDOOR RECREATION – A place designed and equipped for the conduct of sports and leisure-time activities conducted outside of a building.

OUTDOOR STORAGE FACILITY OR YARD – The outdoor standing or placement of usable and/or potentially usable goods or equipment other than for display and not including waste or scrap materials, other than in junk yards.

SECTION 2.16 P

PARKING SPACE (STALL) – An area of definite length and width; said area shall be exclusive of lawn areas or drives, aisles, or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

PERSONAL SERVICE ESTABLISHMENT – An establishment primarily engaged in providing services involving the care of a person or his or her goods or apparel, but not including a tattoo or piercing parlor.

PLACE OF PUBLIC ASSEMBLY – Buildings, structures, and grounds, including theaters, churches, auditoriums, convention space, stadiums, sports arenas, concert halls, lecture halls, and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship, or similar activities involving assembled groups of people numbering thirty (30) or more.

PLACE OF PUBLIC ASSEMBLY, LARGE – A place of public assembly shall be considered a large facility if it has either two thousand (2,000) square feet or more in gross floor area, total seating capacity of more than one hundred (100) in the largest room or space intended for public assembly, or the capability to expand to meet these standards in the future.

PLACE OF PUBLIC ASSEMBLY, SMALL – A place of public assembly shall be considered a small facility if it has either less than two thousand (2,000) square feet in gross floor area or total seating capacity of no more than one hundred (100) in the largest room or space intended for public assembly.

PLANNED UNIT DEVELOPMENT (PUD) – A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages, in which one or more of the applicable zoning district regulations pertaining to allowed uses, minimum lot area, minimum lot width, required yards, maximum building height, minimum residential floor area, or other applicable zoning district requirements are waived in order to provide a recognizable benefit to the public and accomplish the intent of Chapter 18, Planned Unit Development, of this Ordinance. The Planned Unit Development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

PLANNING COMMISSION OR COMMISSION – The Eureka Charter Township Planning Commission.

PLATTED SUBDIVISION (ALSO "PLAT") – Development comprised of partitioning or splitting a tract of land or parcel into individual privately-owned lots meeting all requirements of the Michigan Land Division Act 288 of 1967 as amended.

POULTRY – A category of domesticated birds kept by humans for the purpose of collecting their eggs, or raising for their meat and/or feathers. For purposes of this Ordinance, the term poultry will include: Chickens, quails, guinea fowls, turkeys, ducks, domestic geese, peacocks, and game birds such as pheasants, pigeons, doves, etc.

PRINCIPAL USE – The primary use to which the premises is devoted and the main purpose for which the premises exist.

PROFESSIONAL OFFICE – A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a coffee shop or child-care facilities.

PROFESSIONAL SERVICE ESTABLISHMENT – An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, information technology, consulting, and other similar services.

PUBLIC AND QUASI-PUBLIC USES – Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; schools and other buildings and structures; and other places where the public is directly or indirectly invited to visit or permitted to congregate, such as churches, municipal off-street parking lots, libraries, museums, or fraternal organizations.

PUBLIC UTILITY – A person, firm or corporation, municipal department, board or commission duly authorized to furnish to the public under federal, state, or municipal regulations, gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water utilities.

SECTION 2.17 RESERVED

SECTION 2.18 R

RECREATIONAL VEHICLE OR EQUIPMENT – Vehicles or equipment used primarily for recreational purposes. For the purpose of this Ordinance, 'recreational vehicle' shall mean:

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

B. Boats and trailers designed to transport boats;

C. Snowmobiles, jet skis, and trailers designed to transport them;

D. Off-road vehicles and trailers designed to transport off-road vehicles;

E. Pop-up tent and trailer campers;

F. Other similar vehicles deemed by the Zoning Administrator to be recreational vehicles except that this term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for daily on-street use.

RECYCLING CENTER – A building, structure, or premises where used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

RENTAL HALL – A facility, room, or interior space devoted partially or wholly as a primary use or accessory use, continuously or occasionally, for parties, receptions, meetings, seminars, banquets and similar indoor gatherings, whether rented, leased, in trade, or as a gift. The serving of alcohol shall be as determined by the State of Michigan Liquor Control Commission and/or other agency designated for that determination.

RESEARCH, DEVELOPMENT, AND TESTING – An establishment for carrying on the investigation in the natural, physical, or social sciences, which may include engineering and process or product development, but which does not involve the mass manufacture, fabrication, processing, or sale of products or services.

RETAIL ESTABLISHMENT, MAJOR – An establishment 50,000 square feet or larger engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAIL ESTABLISHMENT, MINOR – An establishment less than 50,000 square feet engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RIDING STABLE – A structure in which horses are kept for the purposes of boarding, breeding, personal use, training, or rental.

RIGHT OF WAY - A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a street, road, sidewalk, crosswalk, trail, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

ROAD COMMISSION – The Road Commission for Montcalm County, Michigan.

ROADSIDE STAND – A building, structure, or area of land designed or used for the display and sale of farm products grown or produced on an affiliated farm.

SECTION 2.19 S

SAWMILL – A facility for the processing of timber from the property on which it is located, from adjoining property, or from other properties removed from the sawmill where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

SEASONAL SALES MARKET – A temporary building, structure, or area of land used for the display and/or sale of products associated with temporary or seasonal events, such as the sale of Christmas trees, fireworks, merchandise, and similar items.

SETBACK – The minimum horizontal distance necessary to meet the front, side, or rear yard requirements of this Ordinance. Also, the minimum distance which a structure or building must be set back or located away from the relevant lot line or boundary line. The area comprising a required building or structure setback is also described as a required yard. (see Figure 2.9)

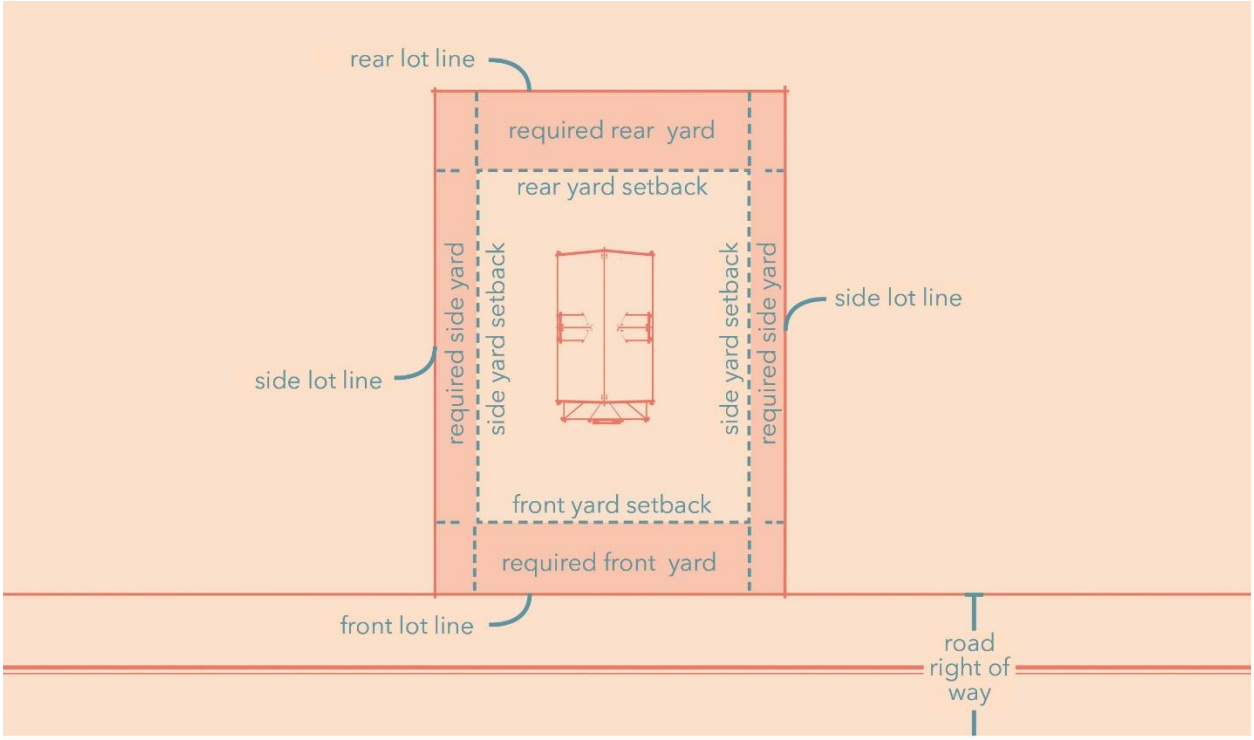


FIGURE 2.9 SETBACKS & REQUIRED YARDS

SHORT-TERM RENTAL - The rental or subletting of any dwelling for a term of 30 days or less, but the definition does not include the use of campgrounds, hotel rooms, transitional housing operated by a non-profit entity, group homes such as nursing homes, and adult foster care homes, hospitals, or housing

provided by a substance abuse rehabilitation clinic, mental-health facility, another health-care related clinic, or a Bed and Breakfast as defined herein.

SIGN – An object, device, display, structure, or part thereof, visible to the general public and designed to advertise, identify, display, direct, inform or attract the attention of persons to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

SIGNIFICANT NATURAL FEATURE – A natural area as designated by the Planning Commission, Township Board or the Michigan Department of Natural Resources, or other applicable state or federal agency, which exhibits unique topographic, ecological, hydrological, cultural, or historical characteristics such as a wetland, floodplain, water features or other unique natural or cultural features.

SITE CONDOMINIUM – A method of development where the sale and ownership of sites are regulated by the Michigan Condominium Act (P.A. 59 of 1978), as amended, rather than the Land Division Act (P.A. 288 of 1967), and which is comprised of a Master Deed over the entire Site Condominium with privately-owned (deeded) or rented building portions and commonly-owned elements within the project.

SMALL EQUIPMENT RENTAL AND REPAIR – An establishment providing the rental of tools, lawn and garden equipment, party supplies, and similar goods and small-scale equipment, including storage and incidental maintenance.

SOLAR ACCESS – The right of a property owner to have sunlight shine onto the property owner's land.

SOLAR ENERGY SYSTEMS (SES) – A system that converts solar energy for electricity generation, space heating, space cooling, or water heating primarily for onsite use and which consists of solar panels, photovoltaic laminates, electrical lines, pipes, batteries, mounting brackets, frames, foundation and other appurtenances or devices necessary for the operation of the system. This definition does not include small devices or equipment such as solar-powered lawn or building lights which house both the solar energy generating system and the system which uses that energy to operate.

SPECIAL LAND USES – Property land uses that are not necessarily appropriate for all areas within a zoning district but are permitted with reasonable deviations or restrictions as specified by the Planning Commission to assure that the uses are compatible with the primary uses surrounding the special use location within the district.

STORY – That part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above. (See Figure 2.1)

STORY, HALF – An uppermost story lying under a sloping roof having a usable floor area of at least 200 square feet with a clear height of seven feet, six inches. For the purpose of this Ordinance, the usable floor area is only that area having at least five feet clear height between floor and ceiling.

STREET (ALSO "ROAD") – A dedicated right-of-way or easement that affords the principal means of access to abutting property. The term "street" shall be synonymous with the terms road, avenue, place, way, drive, boulevard, trail, highway, or other thoroughfare.

STREET, ARTERIAL – An arterial roadway as designated by the Michigan Department of Transportation, Road Commission for Montcalm County, or Eureka Charter Township.

STREET, COLLECTOR – A street that conducts and distributes traffic between other residential streets of lower order in the street hierarchy, as designated by Eureka Charter Township, the Road Commission for Montcalm County, or the Michigan Department of Transportation.

STREET, PRIVATE (ALSO, "PRIVATE ROAD") – An undedicated, privately-controlled and maintained right-of-way, easement, or other interest in land which affords the principal means of access to one or more lots or parcels. "Private road" or "private street" also means any undedicated path, trail, or road that provides or is intended to provide the primary means of ingress and egress to two or more lots or two or more principal buildings, dwelling units, structures, or combination thereof, whether created by a private right-of-way agreement, a joint ownership, a license, a lease, or an easement. Any and all extensions, additions, or branches of or to a private road shall be considered part of the private street that abuts the public road. A private street shall also include the following:

A. An access serving one parcel if that parcel does not have the requisite amount of frontage on a public road as required by this Ordinance.

B. Where two or more parcels or dwellings share or utilize a common access drive, even if each parcel has a required frontage on a public road.

STREET, PUBLIC – A public, dedicated right-of-way other than an alley, which affords the principal means of access to abutting property.

STRUCTURE – Any constructed, erected, or placed material or combination of materials in or upon the ground having a fixed location, including but not limited to buildings, dwellings, billboards, light posts, signs, swimming pools, storage bins (or the equivalent), animal enclosures other than fences, garages, sheds, accessory buildings, decks, platforms, patios, solar panels (or the equivalent), portable or movable vehicle carports or similar enclosures, satellite dishes, storage bins, towers, windmills, wind turbines, gazebos, tennis courts and signs.

The following are excluded from the definition of "structure" (i.e. such items are not structures):

A. Lawful fences, sidewalks, and paving on streets, driveways, or parking areas.

B. Decks or patios, no portion of which is located:

   1. More than two feet above the ground (natural grade).

   2. Closer than five feet to any lot line, or

   3. Within 30 feet of the high water mark of any lake.

C. Retention walls not over five (5) feet in height.

SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 30% of the market value of the structure, either before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of

any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

SECTION 2.20 T

TATTOO PARLOR – An establishment where tattooing or skin piercing is regularly conducted whether or not it is in exchange for compensation.

TOWNSHIP BOARD – The Eureka Charter Township Board of Trustees.

TRUCK/FREIGHT TERMINAL – A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi- trailers, including tractor and/or trailer units and other trucks, are parked and stored.

TELEVISION OR RADIO STATION – Commercial and public communications uses for radio and television broadcasting, receiving stations, and studios for over-the-air, cable, or satellite delivery, with facilities entirely within buildings.

TEMPORARY STORAGE UNIT - A transportable unit, container, or structure designed primarily for temporary storage of personal property, household goods, and other such materials for use on a temporary basis. Temporary storage units shall not be considered an accessory building as defined in this Ordinance.

SECTION 2.21 RESERVED

SECTION 2.22 V

VEHICLE – A motorized conveyance designed and intended for the purpose of moving people or goods.

VETERINARY OFFICE – A facility where animals are given medical care and the boarding of animals is limited to short-term care incidental to the clinic use, which may or may not include boarding or kennel facilities.

SECTION 2.23 W

WAREHOUSE – A building used primarily for the storage of goods and materials.

WIRELESS COMMUNICATION FACILITY – A device, the surface of which is used to transmit and/or receive radio-frequency signals, microwave signals, telecommunications signals, or other signals transmitted to or from other antennas or telecommunication facilities for commercial or municipal purposes, but not including the following:

A. Facilities that are accessory to a residential use, including but not limited to, licensed amateur radio operators and volunteer public safety agencies; or

B. Facilities owned or operated by a governmental agency.

SECTION 2.24 RESERVED

SECTION 2.25 Y

YARDS – The open spaces that lie between a main building or buildings and the nearest lot line. Also, the setback area.

A. FRONT YARD – An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest building line. (See Figure 2.10)

B. REAR YARD – An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest building line. (See Figure 2.10)

C. SIDE YARD – An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest building line. (See Figure 2.10)

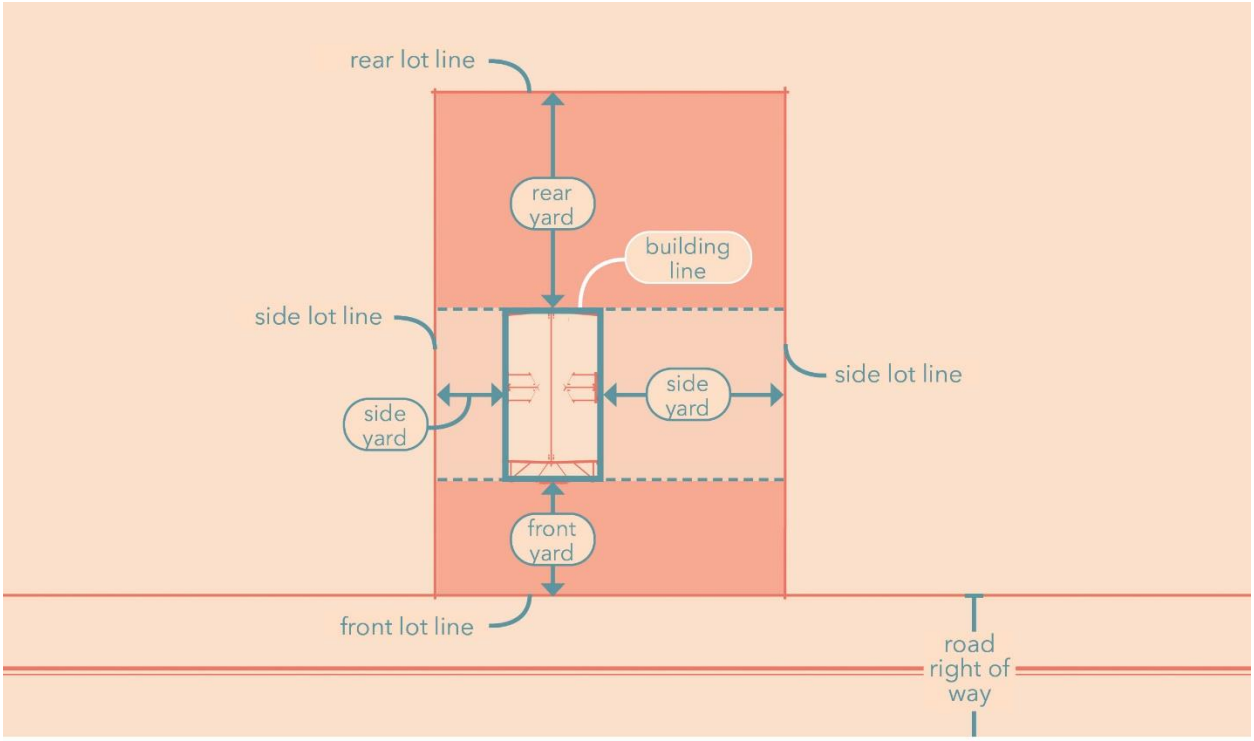


FIGURE 2.10 YARDS & BUILDING LINES

YARD, REQUIRED – The yard necessary to meet the minimum setback requirement for each district. (See Figure 2.9 on page 2-24)

YARD SALE – A basement sale, garage sale, rummage sale, yard sale, attic sale, flea market sale, lawn sale, estate sale and other sale of tangible personal property, including, but not limited to, clothing, household items, general merchandise, tools, garden implements, toys, recreational equipment, vehicles,

used or second-hand items usually found in the home, or other similar personal property, which is advertised to the public.

SECTION 2.26 Z

ZONING ENABLING ACT OR ZONING ACT – Act 110 of the Michigan Public Acts of 2006, as amended, known as the Michigan Zoning Enabling Act (previously called the Township Zoning Act).

ZONING OFFICIAL OR ZONING ADMINISTRATOR – The person designated by the Eureka Charter Township Board to administer the provisions of this Zoning Ordinance.

ZONING BOARD OF APPEALS OR BOARD OF APPEALS – The Zoning Board of Appeals of Eureka Charter Township.

Chapter 3. General Provisions

SECTION 3.00 REQUIRED FRONTAGE AND ACCESS

A. Any lot created or altered shall have a minimum lot area, dimension, and width equal to or greater than that required by the Zoning District in which it is located, except as may be otherwise specifically permitted in this Ordinance.

B. Any lot created shall have frontage on an improved public or lawful private street equal to or greater than the required lot width.

C. Buildable Lot. No building permit shall be issued unless the lot complies with all the following:

1. The Mid-Michigan District Health Department has approved the construction of an on-site water supply system under the same standards as required in section 105 (g) of the Land Division Act 288 of 1967 as amended.
2. The Mid-Michigan District Health Department has approved an on-site sewage disposal system under the health department standards as required in section 105 (g) of the Land Division Act 288 of 1967 as amended.
3. A lot is buildable only if it meets either (1) the current area, frontage, size, and other dimensional requirements of the Eureka Charter Township Zoning Ordinance, or (2) it constitutes a lawful non-conforming lot.

D. A lawful non-conforming lot may be built upon, used, or developed in accordance with this Ordinance provided that all setback, maximum lot coverage, and similar requirements are met.

SECTION 3.01 REQUIRED AREA OR SPACE

A. No lot, adjacent lots in common ownership, required yard, parking area, or other required open space shall be created, divided, split, altered, or reduced in dimensions or area below the minimum requirements of this Ordinance.

B. If already less than the minimum requirements of this Ordinance, a required yard, parking area, or other open space shall not be divided , split, altered or reduced in dimensions, area, or use so as to increase its noncompliance with the minimum requirements of this Ordinance.

C. Lots or yards created after the effective date of this Ordinance shall comply with all of the requirements of this Ordinance.

SECTION 3.02 CUL-DE-SAC LOTS

A. A cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.

B. A lot on a cul-de-sac shall have frontage which is not less than 80% of the minimum lot frontage required for the Zoning District in which it is located.

C. The minimum lot width shall be measured at a line drawn between the two points located at the intersection of a line extending along the side lot lines equal to the distance of the required front setback. (see Figure 3.1)

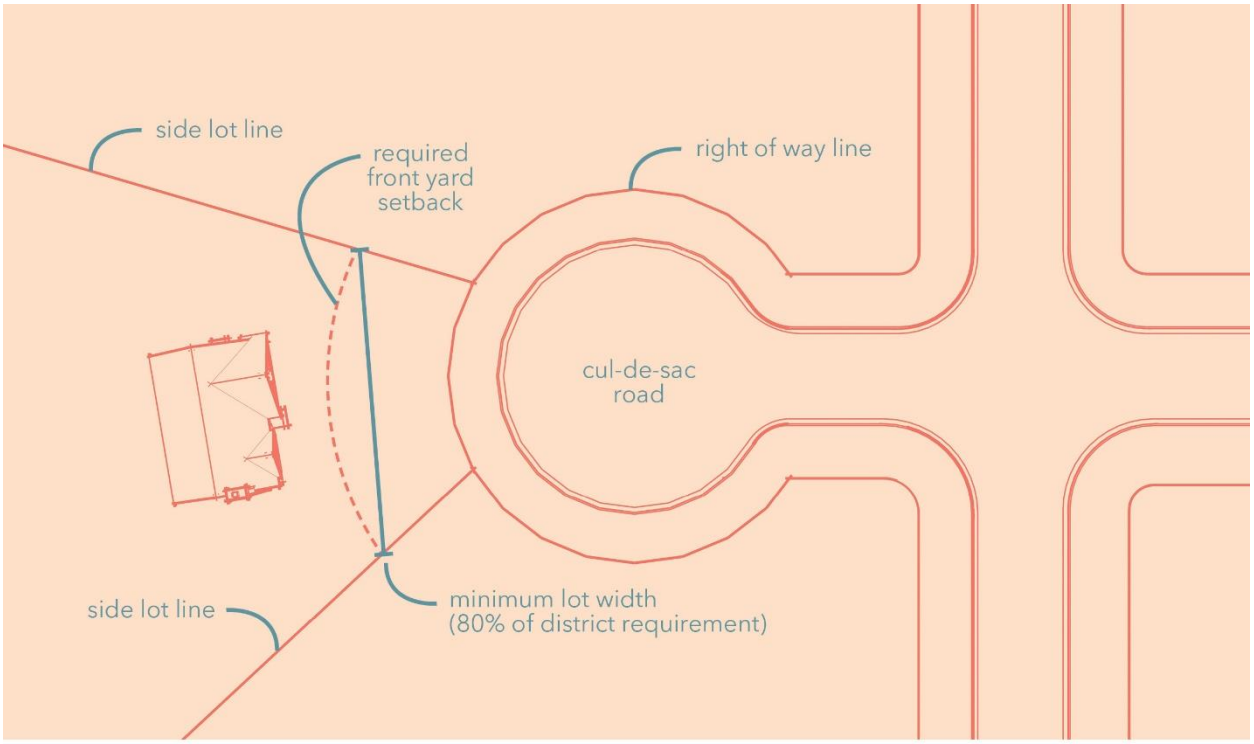


FIGURE 3.1 MINIMUM CUL-DE-SAC LOT WIDTH

SECTION 3.03 RESERVED

SECTION 3.04 CLEAR VISION AREAS

A. No plantings shall be established or maintained on any lot that will obstruct the view of a vehicle driver approaching a street intersection. There shall be maintained an unobstructed triangular area formed by the street property lines and a line connecting them at points fifteen (15) feet from the intersection of the street lines, or, in the case of a rounded property corner, from the intersection of the street property lines extended. This shall not prohibit the planting of landscaping that will be less than thirty (30) inches in height at maturity and maintained at that height or lower. (See Figure 3.2)

B. No vegetation shall be maintained in any yard which, in the opinion of the Zoning Administrator, will obstruct the view of vehicles entering or leaving the site from driveways or adjacent roadways.

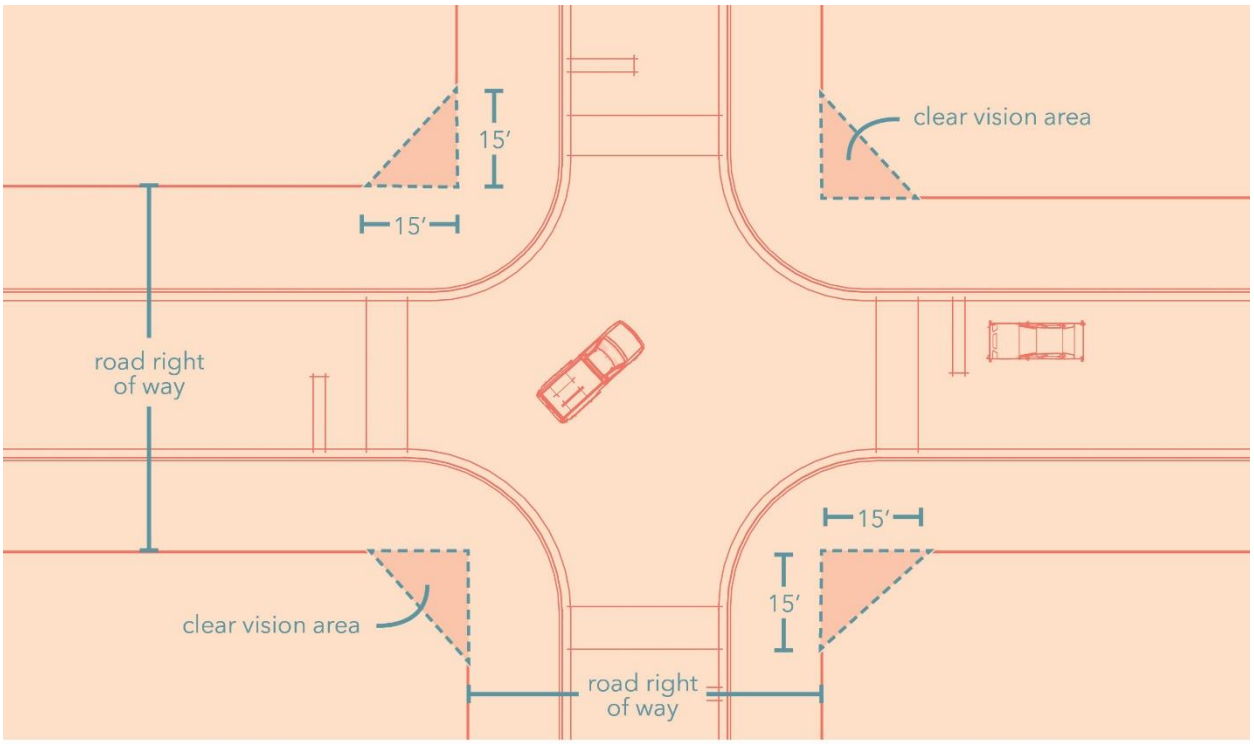


FIGURE 3.2 CLEAR VISION AREAS

SECTION 3.05 PROJECTIONS INTO YARDS

A. Certain architectural features, such as cornices, bay windows (or windows without foundations), eaves, gutters, chimneys, pilasters, and similar features may project no further than four (4) feet into a required front, rear, or side yard.

B. An open, unenclosed, and uncovered porch, paved terrace, deck, balcony, or window awning may project no further than:

   1. Five (5) feet into a required front yard;
   2. Fifteen (15) feet into a required rear yard; and
   3. Shall not project into a required side yard.

C. In no case shall an open, unenclosed, and uncovered porch, paved terrace, deck, balcony, or window awning be placed closer than five (5) feet to any front or rear lot line.

SECTION 3.06 PERMITTED FRONT SETBACK REDUCTIONS

A. Where the front setbacks for existing main buildings entirely or partially within 200 feet of the side lot lines, on the same side of the street and in the same Zoning District as the subject lot, are less than the required front setbacks for the Zoning District of the subject lot, the required front setback for the subject lot shall be the average of the front setbacks of existing main buildings within the 200-foot

distance, subject to subsections B and C below.

B. The permitted front setback reduction shall only be permitted if there are two or more lots occupied by main buildings within the 200-foot distance.

C. In no case shall the required front setback resulting from the application of this Section be less than thirty (30) feet.

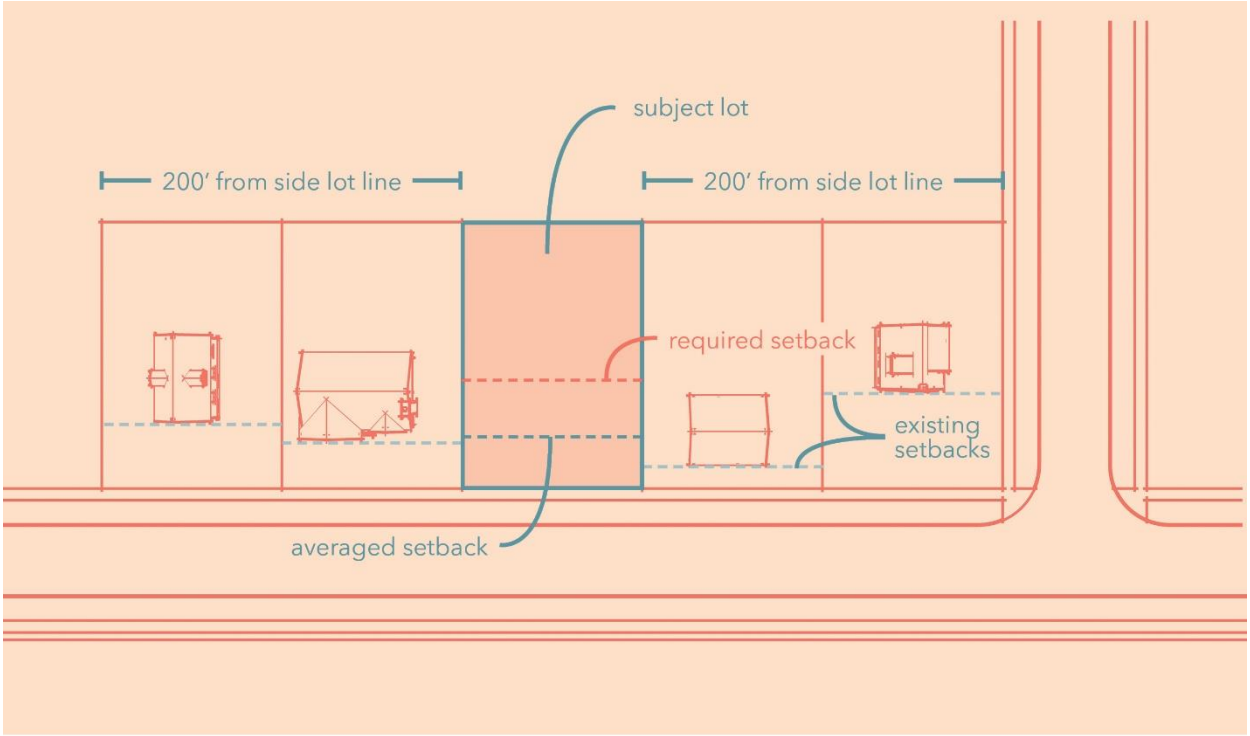


FIGURE 3.3 PERMITTED FRONT SETBACK REDUCTIONS

SECTION 3.07 MAIN BUILDING OR PRINCIPAL USE

A. Each parcel shall contain only one main building or principal use, except for groups of related agricultural, commercial, industrial, or office buildings, and multiple family dwellings contained within a single integrated complex with shared parking, signage, access, and other similar features, which in the opinion of the Zoning Administrator, form a single integral development.

B. This provision shall not apply to temporary dwellings authorized by the Zoning Administrator pursuant to Section 3.25.

SECTION 3.08 ACCESSORY BUILDINGS, STRUCTURES, AND USES

A. Accessory Buildings, General.

1. No accessory building shall be installed or constructed unless a zoning permit has been issued for such building, unless specifically exempted by this ordinance. No accessory building shall be constructed until a building permit has been issued, unless exempt according to the Stille-Derossett-Hale Single State Construction Code Act (Uniform Construction Code, Act 230 of 1972), or the codes promulgated under that Act.

2. Buildings exempt from the requirement of obtaining a building permit are required to obtain a zoning permit, and shall comply with all applicable provisions of this Ordinance and other Township ordinances.

3. Where accessory buildings or structures, including but not limited to enclosed porches or garages, are attached to a main building in a substantial manner such as by a wall or roof, they shall conform to all regulations of this Ordinance applicable to a main building.

4. Accessory buildings shall not be permitted in the first 200 feet of a front yard, unless substantial natural vegetation exists between the accessory building and the street that effectively screen the building from view from the right of way.

5. Accessory buildings shall not be permitted on a lot or parcel which does not have a main building, unless all of the following standards are met:

   a. Zoning and building permits for the principal building have been issued;

   b. The residence must be completed within two years from the date of issuance of the building permit for the primary residence;

   c. The resident must agree to and sign the Eureka Charter Township Standalone Accessory Building Agreement (or equivalent document provided by the Township); and

   d. The Zoning Administrator may require a performance guarantee in accordance with Section 29.06 to ensure the completion of the principal residence.

6. Accessory structures measuring less than 200 square feet do not require the issuance of a Zoning Permit.

7. No more than two (2) detached accessory buildings shall be permitted on any lot.

8. An accessory building shall not be used as a dwelling unless a special land use permit is approved by the Planning Commission pursuant to Chapter 19 for an Accessory Dwelling Unit.

9. In accordance with the Right to Farm Act (Act 93 of 1981), accessory buildings in Agricultural and Rural Residential districts shall not be subject to the standards of this Section 3.08 (A) if in compliance with the statute and Generally Accepted Agricultural Management Practices (GAAMPs).

10. Use and Construction of Accessory Buildings - Accessory buildings shall be stick-built or the equivalent of new building construction. No mobile home, tank, junk object, or salvage materials, trailer, vehicle or similar item shall be utilized as an accessory building or storage structure;

provided, however, that such requirement shall not be applicable to bona fide agricultural storage or activities, or to tool sheds or similar temporary storage structures utilized pursuant to the construction of a building as allowed elsewhere in this Ordinance.

B. Accessory Uses, General

1. Accessory uses are permitted only in connection with, incidental to, and on the same lot as a principal use which is permitted in the particular Zoning District.
2. No accessory use shall be utilized unless the main building to which it is accessory is lawful and occupied or utilized.
3. No accessory use may be placed on a lot without a principal use, unless otherwise permitted by Section 3.08, A, 5 or Section 3.25.
4. In accordance with the Right to Farm Act (Act 93 of 1981), accessory uses in Agricultural and Rural Residential districts shall not be subject to the standards of this Section 3.8 (B) if in compliance with the statute and Generally Accepted Agricultural Management Practices (GAAMPs).

C. Residential Accessory Buildings and Structures. Residential accessory buildings are subject to the following regulations:

1. An accessory building located in the rear yard shall not occupy more than 25% of the required rear yard area nor be larger than the maximum permitted in the table below, whichever is less.
2. No detached accessory building shall be located closer than 10 feet from any main building or lot line. The 10-foot minimum setback shall be increased by two feet per each one foot that a detached building exceeds the height of the house or 18 feet, whichever is less.
3. A residential accessory building shall not be located in a required side yard.
4. The following table provides a schedule of regulations for residential accessory buildings:

Lot Area	Maximum Height	Minimum Rear Yard Setback	Maximum Number	Total Area of All Accessory Buildings
3/4 acre or less	18 ft.	10 ft.	2 Detached	1,200 sq. ft.
3/4 to 1½ acres	24 ft.	22 ft	2 Detached	1,600 sq. ft.
1.5 acres to 5 acres	35 ft.	44 ft.	3 Detached	5,000 square feet
5 acre or more	35 ft.	District standard	No limit	No limit

D. Other District Accessory Buildings and Structures. Accessory buildings may be permitted within the OSC-1, OSC-2, GC, RC, and IND Districts provided that the following standards are met:

1. No more than two detached accessory buildings shall be permitted on any lot.
2. The total area of all accessory buildings shall not exceed 25% of the floor area of the main building(s).
3. Detached accessory buildings shall meet all setback requirements for the Zoning District in which

they are located.

4. No detached accessory building shall be located within 10 feet of any main building.
5. No detached accessory building shall exceed the permitted height for main buildings in the district in which it is located.

SECTION 3.09 FENCES

A. Fences in Residential Districts and on that portion of a lot in the Agricultural District used for residential purposes (located around the residence) shall not exceed six (6) feet in height, measured from the surface to the uppermost portion of the fence. The artificial raising or berming of land to increase the functional height of a fence is prohibited.

B. Fences within the required front yard that exceed four feet in height shall be of a type that is not more than 25% solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed. In a non-residential area of the Township, a fence in the required front yard may be up to six feet in height and of a solid material provided the fence is a least 15 feet behind the right-of-way setback and does not interfere with clear vision of a public or private roadway of a vehicle exiting the property on which the fence is constructed.

C. Fences in Residential Districts and that portion of a lot in the Agricultural District used for residential purposes shall not contain barbed wire and shall not be electrified, provided, however, that such fencing may be used for the containment of farm animals for agricultural purposes.

D. All fences in the Township shall be maintained in good condition and repair at all times and shall be maintained to retain their original appearance, shape, and configuration. Elements of a fence that are missing, damaged, destroyed, or deteriorated shall be replaced. Fences shall be constructed of materials typical for the purpose for which the fence is erected. The finished portion of a fence shall face or point outward from the lot where the fence is located.

E. Fences in the Commercial and Industrial Districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence is no closer than six feet from the surface to the ground.

F. Fences shall not be located within road or street rights-of-way or easements.

SECTION 3.10 SWIMMING POOLS

All swimming pools shall comply with the Eureka Charter Township Swimming Pool Ordinance (Ordinance #46), as amended.

SECTION 3.11 RESERVED

SECTION 3.12 STORAGE OF RECREATIONAL EQUIPMENT

A. The storage of any trailers or equipment used primarily for recreational purposes and any recreational vehicle, such as boats, floats, camping or travel trailer, pickup campers, snowmobiles, motor homes,

motorcycles, and other equipment or vehicles of a similar nature in residential districts is permitted within a side or rear yard, subject to the following requirements:

1. All storage or parking of recreational vehicles and equipment shall be limited to a lot upon which is located an inhabited dwelling unit and the vehicle or equipment so stored or parked is owned by an occupant of the dwelling unit.
2. Recreational vehicles or equipment shall not be located within the required front yard or within three (3) feet to a side or rear lot line.
3. Recreational vehicles shall not be used as a dwelling unless specifically authorized as a temporary dwelling pursuant to Section 3.25.

B. One recreational vehicle or may be parked in a driveway from May 1 through October 31, provided that:

1. The vehicle is maintained in good condition;
2. The vehicle is parked a minimum of fifteen (15) feet from the front lot line;
3. Clear vision for pedestrians and vehicles is maintained; and
4. The recreational vehicle is not being occupied or repaired.

SECTION 3.13 STORAGE AND REPAIR OF VEHICLES

A. The repair, restoration, and maintenance of personal vehicles in a residential district, when not conducted entirely within the interior of a building, shall be subject to the following standards:

1. Procedures or projects exceeding one week in duration or which require the vehicle to be immobile or inoperable in excess of one week shall be carried out within a garage.
2. Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building.

B. In any residential district or agricultural district five (5) acres or less, it shall be unlawful for an owner, tenant, or lessee to store or park construction equipment outside, including but not limited to, semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes, or any other similar equipment or machinery, unless a valid zoning and/or building permit has been issued for construction on such lot.

SECTION 3.14 SEASONAL MARKET AND PERSONAL PROPERTY SALES

A. Seasonal Sales Market.

1. Permit Required. Upon application, the Zoning Administrator may issue a Seasonal Sales Permit for the operation of a seasonal sales market. Each permit shall be valid for a period not to exceed 90 days and may be renewed by the Zoning Administrator for up to one additional 30-day period, provided that the season or event to which the use relates is continued.

2. Seasonal sales markets are subject to the following standards:

   a. Seasonal sales markets shall not operate more than 90 days per calendar year, unless renewed pursuant to Section 3.14, A, 1 above.

   b. The period of sale shall coincide with the period of harvest or public holiday during which the product is being sold;

   c. Access to the seasonal sales market will not constitute a traffic hazard or visual distraction;

   d. Adequate off-street parking is available to accommodate the use;

   e. The site shall be maintained in a safe and clean condition;

   f. A seasonal sales market shall obtain all other applicable local, state, and federal licenses or permits that may be required for such use, which shall be issued and maintained for the duration of the use.

3. Exemption. In accordance with the Right to Farm Act (Act 93 of 1981), roadside stands and farm markets in the Agricultural and Rural Residential districts shall not be subject to standards for seasonal sales markets if in compliance with Generally Accepted Agricultural Management Practices (GAAMPs).

B. Personal Property Sales.

1. Yard Sales. Yard sales are subject to the following standards:

   a. No such sale shall occur on more than three (3) days in a period of 30 days beginning on the first day of said sale.

   b. Sales shall be conducted between the hours of 8 am and 7 pm.

   c. Yard sales shall not be set up more than 24 hours prior to the sale and all unsold merchandise must be removed immediately upon the conclusion of the sale.

   d. No merchandise involved in a yard sale may be placed within a public right-of-way, including streets and sidewalks, cause a hazard to traffic, or obstruct vehicular or pedestrian use of the road.

   e. Signage must comply with Chapter 13, Signs.

   f. Adequate off-street parking must be available to accommodate the use.

   g. The site shall be maintained in a safe and clean condition.

2. Small Items. The sale of smaller personal items, such as bicycles, furniture, electronics, small yard equipment, and similar items is permitted provided that the following standards are met:

   a. Items offered for sale are not sold in quantity or in such an arrangement so as to be considered a garage sale, unless the provisions of subsection 1 of this section are met.

   b. Items offered for sale are not sold on a recurring or ongoing basis.

   c. Signage must comply with Chapter 13, Signs.

d. Such items offered for sale shall not be located within a road right-of-way, cause a hazard to traffic, or obstruct vehicular or pedestrian use of a road.

e. Items offered for sale shall be kept in reasonable condition and the area where they are located shall be maintained in a neat and orderly manner.

3. Large Items. The sale of larger personal items, such as vehicles, boats, lawn tractors, trailers, and similar items is permitted provided that the following standards are met:

a. No more than two motor vehicles, and no more than two other related equipment items (i.e., campers, trailers, snowmobiles, boats, etc.) may be displayed for sale in the front yard of a non-commercial zoned property.

b. No more than five (5) such items shall be offered for sale per year.

c. Vehicle and equipment item sales shall be limited to a 30-day period.

d. No such sale shall occur more than once in a period of 60 consecutive days beginning on the first day of said sale.

e. All unsold vehicles or equipment items must be removed immediately upon the conclusion of the sale and all large sold items must be removed within 24 hours.

f. No vehicles or equipment items may be placed within a public right-of-way, including streets and sidewalks, cause a hazard to traffic, or obstruct vehicular or pedestrian use of the road.

g. Signage must comply with Chapter 13, Signs.

h. Adequate off-street parking must be available to accommodate the use.

i. The site shall be maintained in a safe and clean condition.

SECTION 3.15 CONSTRUCTION BUILDINGS AND STRUCTURES

Construction buildings, structures, and trailers, incidental to construction work on a lot may be temporarily placed on such lot, subject to the following restrictions:

A. Construction buildings and structures may only be used for the temporary storage of construction materials, tools, supplies, and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities related to construction activity on the same lot.

B. No construction building, structure, trailer, or mobile unit shall be permanent or used as a dwelling unit.

C. A Zoning Permit shall be issued by the Zoning Administrator prior to installation of a construction building, structure, site office trailer, or mobile tool crib.

D. Construction buildings, structures, site offices, and mobile tool cribs shall be removed from the lot within 15 days after a final Certificate of Occupancy and Use has been issued by the Zoning Administrator for the permitted construction activities, or within 15 days after the expiration of a Zoning and/or Building Permit issued for construction on such lot, whichever comes first.

SECTION 3.16 REGULATIONS APPLICABLE TO SINGLE-FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS

Any single-family dwelling, whether constructed and erected on a lot, a manufactured home, or a pre-manufactured or pre-cut building, shall be permitted outside a manufactured home park only if it complies with all of the following requirements:

A. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes adopted by the Township, provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by Township codes, then and in such event such federal or state standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Official.

B. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, minimum residential floor area, required yards, and maximum building height requirements of the Zoning District in which it is located.

C. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, which has a wall of the same perimeter dimensions as the dwelling unit and is constructed of such materials and type as required by the building code for on-site constructed single-family dwellings.

D. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty (20) feet. The dwelling's minimum width shall be at least 24 feet for at least 75 percent of its length, measured between the exterior part of the walls having the greatest length. Any exterior addition shall be of the same construction and materials as the original structure.

E. A storage area of not less than 120 square feet shall be provided in conjunction with the single-family dwelling. This storage area may consist of a basement, closet area, attic, garage attached to a main building, or in a detached accessory building that complies with all other applicable provisions of this Ordinance.

F. Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference greater than eight (8) inches between the first floor entry of the dwelling unit and the adjacent grade.

G. The pitch of the main roof of the dwelling unit shall not be less than three feet of rise for each 12 feet of horizontal run, and shall have not less than a twelve (12)-inch overhang.

H. The exterior finish of the dwelling unit shall not cause reflection that is greater than that from siding coated with clean, white gloss exterior enamel.

I. The dwelling unit shall have at least two exterior doors with one being in either the rear or the side of the dwelling unit.

J. The use of any portion of the basement of a partially-completed building or dwelling for sleeping purposes in any Zoning District is prohibited.

K. Manufactured Homes. If the dwelling unit is a manufactured home, the following standards shall apply:

1. If the manufactured home is new, it must be certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the United States Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated.
2. If the manufactured home is used, it must be certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in Subsection L(1) above and found, on inspection by the Building Official or his designee, to be in excellent condition and safe and fit for residential occupancy.
3. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed.
4. The foundation or skirting of a manufactured home shall fully enclose the chassis, undercarriage, and towing mechanism.
5. The manufactured home shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks.
6. Skirting must be installed and must be constructed of an approved material of a permanent nature, such as poured concrete or concrete block, consistent with the intent of this Ordinance and in compliance with the Building Code adopted by this Township. Temporary skirting is prohibited. An approved foundation enclosure shall not be constructed to permit temporary skirting.
7. Dwellings located in a manufactured home park regulated pursuant to Act 96 of 1987 (The Mobile Home Commission Act), as amended, shall comply with the terms of this Ordinance as applicable and the terms of that Act and all rules promulgated under it.

L. Every dwelling unit or dwelling shall have at least 1000 square feet of finished livable floor space above grade.

SECTION 3.17 TEMPORARY STORAGE UNITS

A. Temporary storage units may be located only within a driveway, parking area, or in a side or rear yard, provided that adequate access is provided.

B. No temporary storage unit shall be placed on public property such as on a street, sidewalk, or parkway between a public street and sidewalk. Temporary storage units located in a driveway or parking area shall be set back at least 20 feet from the front lot line.

C. Not more than one (1) temporary storage unit may be located upon or within a lot for a maximum of thirty (30) consecutive days, including the day of delivery and removal, within any six-month period.

D. A temporary storage unit may not exceed eight (8) feet in height, nine (9) feet in width, or sixteen (16) feet in length.

E. A temporary storage unit shall be secured in a manner that does not endanger the safety of persons or property.

F. A temporary storage unit shall at all times, be maintained in good condition, free from evidence of deterioration, graffiti, rust, ripping, tearing, holes or breaks.

G. No temporary storage unit shall be used for human occupancy or to store solid waste, construction debris, demolition debris, business inventory, commercial goods, goods for property other than the property where the temporary storage unit is located, or any illegal or hazardous material. Upon reasonable notice, the Township may inspect the contents of a temporary storage unit at any reasonable time to confirm compliance with this standard.

H. A temporary storage unit that is not removed at the end of the time for which it may lawfully remain in place, may be removed by the Township, without notice, and the cost of such removal shall be assessed to the property owner.

SECTION 3.18 RESERVED

SECTION 3.19 KEEPING OF ANIMALS

A. The keeping of domesticated pets, including dogs, cats, small mammals, and container animals such as reptiles, snakes, spiders, and other animals generally regarded as household pets is permitted as an accessory use in any residential or agricultural district. However, four or more dogs, and four or more cats, four months of age or older, shall not be kept or housed in or at one dwelling unit.

B. Except as noted, the keeping of farm animals not normally considered household pets shall be permitted, subject to the following acreage ratio:

Animal	Number of Animals Permitted Per Acre			
	Less than 1 Acre	2 Acres	3 Acres	Greater than 3 Acres
Horse/Cow/ Pig/Sheep/Goat and similar	0	0	1	Add 1 animal per acre
Poultry (chickens/geese/ducks and similar)	5	10	25	Add 10 poultry per acre

C. In accordance with the Right to Farm Act (Act 93 of 1981), the keeping of farm animals in Agricultural and Rural Residential districts shall not be subject to the standards of this Section if the animals are kept in compliance with Generally Accepted Agricultural Management Practices (GAAMPs).

D. Keeping of Chickens. Any person who keeps chickens in the Township on non-farm properties under 3 acres shall comply with the following requirements:

1. The chickens and eggs shall only be used for consumption by the owner and cannot be used for any sales outside of the home.
2. The principal use of the property shall be for single-family dwellings.
3. No roosters shall be kept on the premises at any time.
4. The slaughtering of chickens on the property is prohibited.
5. Chickens shall be contained at all times in a fence with complete covering and have a fully enclosed coop. Coops must be neatly constructed of conventional building materials suitable for the purpose intended. Coops constructed of old, weathered, scrap materials, or similar items, are prohibited.
6. If the coop is constructed over 200 square feet in area, a zoning permit is required.
7. No containment, coop, or fence shall be placed within 10 feet to a property line nor closer than 50 feet to any adjoining occupied dwelling. If on a waterfront parcel, a containment, coop, or fence shall be located a minimum of 50 feet from the high water line.
8. Coops shall not be located in the front yard.
9. The containment, coop, or fence area must be maintained to prevent any rodents or other animals from harboring within or under such containment areas.
10. All feed and other items associated with keeping chickens that are likely to attract or to become infested with or infected by rodents or any other animal shall be kept in fully enclosed containers (i.e., galvanized or plastic garbage cans).
11. Provisions must be made for the storage or removal of the manure. No more than 3 cubic feet of manure may be kept in storage and it must be confined in such a manner as to not allow the manure or its odor to spread onto abutting properties. All other manure not used for fertilizer must be removed daily.

SECTION 3.20 WATER AND SANITARY SEWER SERVICE

A. No structure for human occupancy shall, after the effective date of this Ordinance, be erected, altered, or moved upon any lot and used in whole or part for dwelling, business, industrial, or recreation purposes unless provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, domestic, commercial, and industrial waste.

B. Such installations and facilities shall conform to the minimum requirements for such facilities set forth by the State of Michigan Health Department, Mid-Michigan District Health Department, or other such agency having current jurisdiction.

SECTION 3.21 ESSENTIAL PUBLIC SERVICES

A. The erection, construction, alteration, or maintenance and use of essential public services shall be permitted in any zoning district.

B. Such use must comply with all regulations of the district in which such use is located, proposed to be located, or is altered.

C. Such use is not exempt from the Township's permit requirements, corresponding inspections, and fees.

SECTION 3.22 BUILDING AND STRUCTURE HEIGHT EXCEPTIONS

A. Height requirements may be exceeded by the following in any district: Parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators and bins, silos, stacks, stage towers and scenery lofts, water tanks, public monuments, church spires, radio and television antennas and towers, penthouses or roof structures housing necessary mechanical appurtenances, and similar structures.

B. In accordance with the Right to Farm Act (Act 93 of 1981), farm buildings or structures in the Agricultural and Rural Residential districts shall not be subject to district height standards if in compliance with Generally Accepted Agricultural Management Practices (GAAMPs).

SECTION 3.23 WITHHOLDING OF APPROVAL

The Zoning Administrator, Planning Commission, or Township Board may withhold granting of any approval required by this Ordinance pending approvals which may be required by county, state, or federal agencies or departments.

SECTION 3.24 TIMELY COMPLETION OF CONSTRUCTION REQUIRED

Following the initiation of the construction, erection, reconstruction, modification, expansion or enlargement of any building or other structure authorized under the provisions of this Ordinance, completion of such work shall be diligently pursued and completed in a timely manner. Unless otherwise specified as a condition of approval of a site plan or special land use by the Planning Commission, any construction authorized under the provisions of this Ordinance shall be completed or be diligently pursued within two years from the date of issuance of a building permit for such construction. Renewal permits must be obtained for the balance of the unfinished work.

SECTION 3.25 TEMPORARY DWELLINGS

The Zoning Administrator may grant a Zoning Permit authorizing the temporary occupancy of a mobile home, existing dwelling unit, or recreational vehicle as a temporary residence for a period not to exceed one year during construction or reconstruction of a permanent dwelling or new dwelling unit for occupancy by the applicant on the lot or parcel on which the mobile home, existing dwelling unit, or recreational vehicle is proposed to be temporarily located. The following additional requirements shall also apply:

A. The applicant shall demonstrate his or her ability and intent to erect a permanent dwelling unit on the lot within the one (1) year period of the permit.

B. The lot or parcel shall have running water and sewage facilities to which the temporary residence is to be connected.

C. Upon expiration of the one (1) year period of a Zoning Permit granted pursuant to this Section, the Zoning Administrator may renew the permit for one (1) additional period of six (6) months upon sufficient showing that construction of the permanent dwelling could not be completed within the original one (1) year, but has substantially progressed during the period.

D. A performance guarantee pursuant to Section 29.06 shall be required to ensure removal of the mobile home from the premises upon expiration of the one-year permit or any extension.

E. The applicant must sign a temporary dwelling agreement provided by the Township.

SECTION 3.26 LIGHTING REQUIREMENTS

A. Purpose. Lighting requirements are intended to create and maintain safe nighttime environments for both pedestrians and drivers on public roadways and right-of-ways by minimizing brightly-lighted surfaces and lighting glare, as well as extended areas along sidewalks and streets. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans submitted for approval under the terms of this Zoning Ordinance.

B. Exempted Lighting. The following types of outdoor lighting shall be exempted from the standards of this section:

1. Residential decorative lighting, such as porch lights, low-level lawn lights, special seasonal lights such as Christmas decorations, and residential yard lights whether building-mounted or pole-mounted, provided the light intensity or brightness at any property line shall not exceed one foot-candle. Light spillover onto public rights-of-way is exempt from this section.
2. Sign lighting as regulated by Chapter 21.
3. Lighting associated with detached single-family and two-family housing.

C. Regulated Lighting. The following types of lighting shall be regulated by this Ordinance:

1. Parking lot lighting and site lighting for commercial, industrial, institutional, and multiple-family developments.
2. Privately-owned roadway lighting.
3. Building façade lighting.
4. Other forms of outdoor lighting which, in the judgement of the Planning Commission or Zoning Administrator, is similar in character, luminosity, and/or glare to the foregoing.
5. All forms of neon lighting.

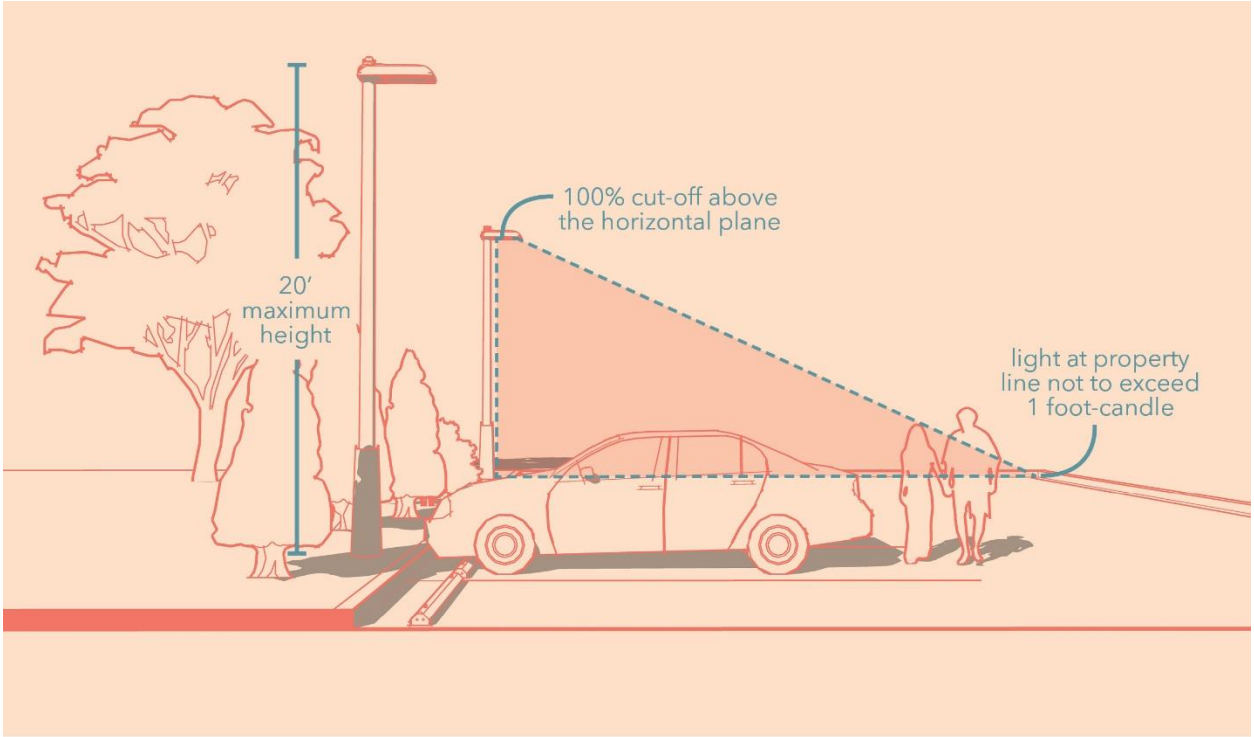


FIGURE 3.4 REGULATED LIGHTING STANDARDS

D. Standards. Regulated lighting shall comply with the following requirements:

1. Lighting shall be shielded, hooded, and/or louvered to reduce glare and be so arranged and maintained as to provide a glare-free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site. Light shall not shine upon any adjoining or nearby lots.
2. Light fixtures shall be no higher than 20 feet. For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of 500 spaces, the Planning Commission or Zoning Administrator may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.
3. Lighting fixtures shall have 100 percent cut-off above the horizontal plane at the lowest part of the point light source. The light rays shall not be emitted by the installed fixture at angles above the horizontal plane.
4. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one foot-candle, except where the property abuts a residential district or use, where a maximum of 0.5 foot-candle is permitted.
5. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness, or color. Beacon, strobe, and searchlights are not permitted.
6. No colored lights shall be used at any location or in any manner so as to be confused with or

construed as traffic control devices.

7. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and property equipped with baffling, glare guards, or lenses to meet the requirements of this section.

SECTION 3.27 RESERVED

SECTION 3.28 RESERVED

SECTION 3.29 DUMPSTERS

Dumpsters or other refuse or recycling containers that serve multi-family residential buildings, institutional, commercial, office, or industrial establishments shall be enclosed and comply with the following requirements:

A. Dumpster pads in parking areas shall be located so as not to interfere with general public/patron normal traffic flow.

B. Dumpsters shall be screened by a continuous opaque screen at least six feet in height. The screen may be comprised of berming, plant material, screen walls, fences, or any combination of these elements suitable to screen the dumpster and prevent rodent infestation. Dumpsters may be installed within buffer zones.

C. The enclosure shall be four-sided with a lockable gate constructed of opaque materials; provided the Zoning Administrator or Planning Commission may permit a three-sided enclosure where site configuration makes a four-sided enclosure impractical or where a three-sided enclosure will effectively screen the dumpster from view from the adjoining right-of-way.

D. Interiors and exteriors of enclosures shall be kept clean and free of debris and clutter.

SECTION 3.30 UNCLASSIFIED USES

Where a proposed use of land or use of a building is not expressly authorized, contemplated, or named by this Ordinance in any of the zoning districts, or where the Zoning Administrator has a question as to the appropriateness of a use that involves other features which are not expressly authorized, contemplated or specified in this Ordinance, the Zoning Administrator may determine that the use is unclassified. In the case of an unclassified use, an amendment to classify, permit, and regulate the use may be initiated pursuant to Section 29.04 of this Ordinance. Unclassified uses may not be treated as a special land use. Unclassified uses are unlawful.

SECTION 3.31 RESERVED

SECTION 3.32 PROHIBITION OF CERTAIN MARIJUANA ESTABLISHMENTS AND FACILITIES

A. Pursuant to Section 6 of the Michigan Regulation and Taxation of Marijuana Act (the "Act"), marijuana establishments are prohibited in the boundaries of Eureka Charter Township and shall not be permitted as a home-based business under Chapter 28 of this Ordinance.

B. Pursuant to the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, as amended, marihuana facilities are prohibited in the boundaries of Eureka Charter Township.

C. No medical marijuana dispensary, grower operation (as defined by Michigan law), provisioning center (as defined by Michigan law), secure transporter (as defined by Michigan law), safety compliance center (as defined by Michigan law), processing facility or similar facility, use or business shall occur, be established, be conducted, or be present within Eureka Charter Township.

D. No medical marijuana dispensary, grower operation (as defined by Michigan law), provisioning center (as defined by Michigan law), secure transporter (as defined by Michigan law), safety compliance center (as defined by Michigan law), processing facility or similar facility, use or business, that was engaged in prior to the enactment of this section, shall be deemed to have been a legally established use; that use shall not be entitled to claim legal nonconforming status.

E. This section does not supersede rights and privileges of any individual or other person under Section 5 of the Michigan Regulation and Taxation of Marijuana Act, as amended, and does not supersede rights and the regulations under Chapter 28 with respect to medical marijuana facilities established pursuant to the Michigan Medical Marijuana Act.

F. This section does not supersede rights and privileges of any individual or other person, or the resulting activities of a marihuana facility outside of the Township, under the Medical Marihuana Facilities Licensing Act, 2016 PA 281, the Michigan Medical Marihuana Act, 2008 IL 1, or the Industrial Hemp Research Act, 2014 PA 547, as amended.

G. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this section, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be subject to the violations and penalties pursuant to Section 29.07 of this Ordinance and shall be declared to be a nuisance per se and offensive to the public health, safety, and welfare.

SECTION 3.33 DRIVEWAYS

An approved driveway permit shall be obtained from the State Highway Department or the County Road Commission and submitted to the Building Official prior to the issuance of a building permit. A driveway shall be located entirely within the lot that it serves.

SECTION 3.34 LAKE ACCESS AND FRONTAGE

The following restrictions are intended to limit the number of users of lake or stream frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within the Township.

A. In all zoning districts, there shall be at least 80 feet of lake or stream frontage as measured along the normal high water mark of the lake or stream for each single family home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit utilizing or accessing the lake or stream frontage.

B. Any multiple-unit residential development in any zoning district that shares a common lake or stream front area or frontage may not permit lake or stream use or access to more than one single family home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit for each 80 feet of lake or stream frontage in such common lake or stream front area, as measured along the normal high water make line of the lake or stream.

C. Any multiple-unit residential development shall have not more than one dock for each 80 feet of lake or stream frontage, as measured along the normal high water mark of the lake or stream, in any zoning district in the Township. All such docks and docking or mooring shall also comply with all other applicable Township ordinances.

D. The above restrictions shall apply to all lots and parcels on or abutting any lake or stream in all zoning districts, regardless of whether access to the lake or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease.

E. In all zoning districts, no lake access, boat ramp, shore station, dock, boat launch, or shoreline abutting a lake shall be utilized for commercial, business, outdoor recreational (or entertainment) facilities, institutional or nonresidential or nonagricultural uses or purposes unless such use is authorized pursuant to a special use approval (and meets the requirements of the zoning district involved) or a planned unit development (PUD) approval.

F. The lake access and use regulations contained in this section shall be fully applicable to all planned unit development (PUD) and special use projects or developments.

G. In addition to the above limitations, no easement, private park, common area, lot or access property abutting or adjoining a lake or stream shall be used to permit access to the Lake or stream for more than one single family home, dwelling unit, condominium unit, site condominium unit, apartment unit or any other use unless such additional access use is approved as a special use (and meets the requirements of the zoning district involved) or as a planned unit development (PUD).

H. The minimum water frontage requirements of this section shall be doubled if the property involved is not served with public sewer or if more than 50 percent of the water frontage of the property involved is comprised of or adjoins a wetland as defined by Michigan law.

I. If a property is located within a zoning district where the minimum lot width requirement is greater than 80 feet, the minimum water frontage requirements of subsections A, B, and C hereof shall be increased so as to equal the minimum lot width requirement of the zoning district in which the property is located.

SECTION 3.35 LOT WIDTH; FRONTAGE

A. The minimum lot width required in each zoning district shall be maintained across the entire length/depth of the lot or parcel, except as provided in subsection B, below.

B. All lots shall have frontage on a public street or on a lawful private road for a distance equal to or greater than the minimum lot width specified for the district in which the lot or parcel of land is located. Lots abutting a cul-de-sac shall be permitted to have less street or road frontage (but in no case less than 33 feet of such frontage), provided, however, that a special land use is obtained pursuant to Article 13, and further provided that the lot width at the front setback line, (or the rear setback line in the case of waterfront lots) and beyond shall satisfy the minimum lot width requirement of the district in which the lot or parcel of land is located.

C. For all lots or parcels abutting or having frontage on a lake or stream, each lot or parcel shall have frontage on the lake or stream, as measured at the normal high water mark, equal to or greater than the minimum lot width requirement of the zoning district within which the property is located.

D. For the purposes of this section, the measurement of lot width and frontage shall exclude all street or road rights-of-way or easements.

E. Where property is located on opposite sides of a public road or public street right-of-way and is in common ownership, the property shall not be considered to be one lot or parcel but shall be deemed separate lots or parcels. Furthermore, the land on each side of the public road or street shall meet all applicable requirements specified by this Ordinance for an individual lot or lots.

SECTION 3.36 DIVISION OF PARCELS OR LOTS

No lot or parcel (platted or unplatted) shall be divided, altered, split, or subdivided unless said action meets this Ordinance and all other applicable Township ordinances.

SECTION 3.37 LOT WIDTH-TO-DEPTH RATIO

In all zoning districts, the depth of all lots created of record after the adoption of this Ordinance shall not exceed four (4) times the width of the lot. For purposes of this section, the measurement for lot width shall be taken along the frontage on the public street or other approved road. The measurement for depth, for purposes of this section, shall be taken from the street or road frontage to the point of the lot located farthest from the street or road frontage. The Planning Commission may permit, as a special land use, a lot with a depth greater than four times the width of the lot, as measured in the manner stated above, if the Planning Commission determines that the area in which the lot is located is not suitable for future development because of the presence of wetlands or severe topography or if such lot or parcel is located in a flood plain. In addition, as to lands in the AG, Agricultural District, the Planning Commission shall approve such a special land use only if it determines that the following conditions have been satisfied:

A. The parcel is poorly suited for agricultural production due to existing soil conditions, slope, or the presence of natural vegetation, such as woodlots, brushland, and wetlands. The Planning Commission, in making its determination, may consider facts such as, but not limited to, past and present uses of the parcel, past productivity, and the difficulty in making the parcel suitable for

farming, including the presence of highly erodible land, as defined by the Conservation Service (or successor).

B. There will be a minimal likelihood of conflicts arising between the residential use and the surrounding agricultural activities.

C. The permitting of the residential use in the circumstances under consideration will not adversely affect the long-term plans and development policies of Eureka Charter Township.

SECTION 3.38 LOT COVERAGE

Except as expressly permitted otherwise in this Zoning Ordinance, no more than 50 percent of the surface area of any lot or parcel in any zoning district shall be covered in total by buildings, structures, streets, or paved surface areas. Additionally, no more than 30 percent of any parcel or lot in any zoning district shall be covered by buildings.

SECTION 3.40 LAND DIVISIONS

A. No lot, parcel of land, or access easement shall be created that does not fully comply with the minimum area, width, frontage, and other minimum requirements of the Eureka Charter Township Zoning Ordinance. All land divisions, lot splits, or property boundary reconfigurations of platted lots and unplatted parcels of land shall comply with all applicable requirements of the Zoning Ordinance and the Michigan Land Division Act.

B. No land division, lot split, creation of an access easement, or reconfiguration or adjustment of property boundary lines shall occur unless and until a land division permit has been obtained from the Zoning Administrator or such other person as may be designated for such purpose by resolution of the Township Board. No permit for a land division shall be issued unless and until the Township determines that the land division, lot split, access easement, or boundary reconfiguration or adjustment, as well as the resulting lots, parcels of land, or access easements, fully complies with the requirements of the Zoning Ordinance and all other applicable Township ordinances. Fees for a land division permit shall be established from time to time by resolution of the Township Board. No land division permit shall be approved or issued unless the application for such permit is accompanied by a survey prepared by a registered land surveyor or engineer showing all resulting lots or parcels of land, easements (if any), and legal descriptions thereof. The Township may waive the requirement of a survey, for good cause shown by the applicant. No permit for division of a platted lot or lots, shall be issued unless and until such land division is approved by the Township Board. No platted lot shall be partitioned or divided into more than four parcels of land.

SECTION 3.41 CERTAIN LARGE SCALE RESIDENTIAL DEVELOPMENTS

Certain large scale residential developments (being those which include 11 or more lots, parcels or site condominium units in the AG Agricultural, RR Rural Residential SR Suburban Residential or UR Urban Residential Districts shall be developed, platted or divided only as planned unit developments ("PUD"). The regulating of such development on a PUD basis will enable the Township to control and moderate the size, scope and impact of such development, in accordance with the Township Master Plan and the

purposes of the Ordinance. The requirements of this section shall apply whether such development involves simple land divisions, platted subdivisions, site condominium units, or any other type of land division, conveyance or development resulting in a number of lots, parcels, site condominium units or other land divisions greater than ten (10).

SECTION 3.42 CHANNELS AND CANALS

No channel, canal or similar waterway or device shall be dug, constructed, dredged, enlarged or created out of or that connects to any lake in the Township. Nor shall the size or surface area of any lake be increased by digging, dredging or excavation upland from the ordinary high water mark of the lake; provided, however, that this section shall not apply to the following:

A. Any lawful dredging occurring on existing lake bottomlands which are lakeward of the ordinary high water mark of the lake.

B. Lawful dredging upland from the ordinary high water mark of a lake so as to create not more than two boat wells (i.e., a mooring area for boats) so long as the water surface area dredged, excavated or otherwise created does not exceed 25 feet in width along the lake frontage and 20 feet of depth from the ordinary high water mark of the lake.

C. The lawful creation or enlargement of a pond which does not abut or connect into an existing lake.

D. The lawful dredging of an existing canal or channel pursuant to applicable state laws and permit requirements, so long as such channel or canal is not enlarged or expanded.

SECTION 3.43 RAILINGS ON RETAINING WALLS AND SIMILAR ITEMS

If a retaining wall, earth buildup or other structure or condition is created within 30 feet of a residential dwelling and has on one or more sides a drop of more than 30 inches, the Zoning Administrator shall have the discretion to require installation and maintenance of a railing, fence or other restraint device to prevent children and others from falling, if the Zoning Administrator determines that such a restraint is reasonably necessary for safety. Any party aggrieved by such a determination by the Zoning Administrator may appeal that decision to the Zoning Board of Appeals pursuant to the time limits and procedures specified in Chapter 24 of this Ordinance.

SECTION 3.44 CERTAIN RETAINING WALLS AND EARTH BUILDUPS SHALL CONSTITUTE STRUCTURES

If the natural grade within 15 feet of a building (whether existing or under construction) is built up and is retained and is partially or wholly retained or kept in place by a retaining wall, retention wall, landscaping timbers, or similar items in order to allow access to a door, entry, or exit for the building, such buildup and retaining items shall be deemed a structure for purposes of setback requirements.

SECTION 3.45 LOTS PARTIALLY OUTSIDE TOWNSHIP BOUNDARIES

In cases where a lot lies partially outside of the Township's boundaries, if a proposed lot, building, structure, or use would not satisfy the minimum area, dimensional, and street frontage provisions of this

Ordinance with respect to that part of the lot located within the Township, then the minimum provisions of this Ordinance shall be applied with respect to the lot, building, structure, or use as if the entire lot were located within the Township, provided, however, that the entire lot shall comply with the minimum area, width, and frontage requirements of this Ordinance, and provided further that if access to the lot is provided at a location outside the Township boundaries, then such access shall be subject to the approval of the Planning Commission prior to the issuance of a zoning permit or building permit by the Township. For purposes of this section, the Township boundaries shall not be deemed to be a lot line.

SECTION 3.46 PORTABLE STORAGE CONTAINERS (PSCs)

A temporary storage unit, known as a portable storage container (PSC), and sometimes called a portable on-demand storage unit, may be temporarily delivered, placed, used and removed in any zoning district, but only in compliance with the provisions of this section.

A. A PSC is a box-like container typically delivered by truck to a location, to serve as a means of temporarily storing household or other personal goods and items. A PSC may be placed temporarily on a lot or parcel of land for the storage of household or other goods, items or objects that are proposed to be moved to another location or that are being stored temporarily during building remodeling or for other purposes requiring temporary storage of such items outside the dwelling or other building in which there were originally located.

B. Except as stated in subsection C of this section, a PSC may remain on a property not longer than 30 consecutive days in any 12-month period commencing on the date when the PSC is first placed on the property; provided, however, that the person using the PSC may apply to the Zoning Administrator for approval of a PSC remaining on a property for a greater period of time and, if the person using the PSC demonstrates a sufficient need, the Zoning Administrator may approve the use of the PSC for a greater period of time, subject to such reasonable conditions as may be imposed by the Administrator.

C. If a PSC is being used for storage of goods and objects during the remodeling or reconstruction of a building on the property, the PSC may remain on the property not longer than 90 days in any 12-month period, commencing on the date when the PSC is first placed on the property; provided, however, that the person using the PSC may apply to the Zoning Administrator for approval of a PSC remaining on a property for a greater period of time and, if the person using the PSC demonstrates a sufficient need, the Zoning Administrator may approve the use of the PSC for a greater period of time, subject to such reasonable conditions as may be imposed by the Administrator.

D. No more than two PSCs may be placed on a lot or parcel at any one time, except that the zoning administrator may approve a greater number for a stated period of time, upon a showing of reasonable necessity therefor by the property owner.

E. A PSC shall be placed no closer than ten feet from any public or private street right-of-way, nor closer than ten feet from any property line.

F. Any signage or other writing or graphic material on a PSC shall be limited to the name, address and telephone number of the provider of the PSC. Such signage or other writing or graphic material shall

not include any advertising, logotype or slogan that refers or pertains to any service or product other than the PSC or the person or business entity that provided the PSC.

G. A PSC shall not be used for the storage of any toxic or hazardous materials.

H. A PSC used in an agricultural or residential district shall be used only for the storage of personal goods and property, but shall not be used for the storage of commercial goods, business inventory, or personal property not associated with the dwelling on the lot or parcel on which the PSC is placed.

SECTION 3.48 CERTAIN PROHIBITED LAND USES

SECTION 3.49 NO ZONING APPLICATIONS, APPROVALS OR PERMITS FOR A PROPERTY THAT IS IN VIOLATION OF THIS ORDINANCE OR A COURT ORDER OR JUDGMENT

Should a parcel or lot be in material or substantial violation of any provision of this Ordinance (or a court order or judgment regarding this Ordinance or the use of the land), then the Township shall not accept, process or approve any request or application by the landowner(s) of the lot or parcel in violation (or anyone else with an interest in the property in violation) unless and until the existing violation or violations of this Ordinance (or the violation or violations of a court order or judgment regarding this Ordinance or the use of the land) have been fully corrected and the parcel or lot complies fully with this Ordinance (and any applicable court order or judgment). The prohibition contained in this Section shall also apply to any zoning request, application or petition, including requests for a zoning approval, rezoning, variance, special land use, temporary use, site plan, permit or other approval that is unrelated to the violation or violations of this Ordinance (or of any applicable court order or judgment) on the lot or parcel involved. The prohibition contained in this Section shall be in addition to (and not exclusive of) any other remedies available to the Township for the enforcement or administration of this Ordinance (or any court order or judgment) and shall be in addition to any other penalties, sanctions or proceedings available at law or equity against the landowner(s) or any other person, firm or entity in violation of this Ordinance (or any court order or judgment).

SECTION 3.50 UNWHOLESOME SUBSTANCES

A. No unwholesome substance, as hereinafter defined, shall be deposited, buried, stored, dumped or accumulated by any person in any body of water or on or under any land, private or public, in the Township, unless such place has been designated as a public dumping ground by the Township, or unless such substance is housed in a completely enclosed building and in a safe and sanitary manner. For purposes of this Section only, the term "unwholesome substance" shall be defined to mean any trash, garbage, tin can, automobile body, junk vehicle, trailer body, junk, hazardous compounds, waste, offal, refuse, rubbish, food containers, bottles, crockery or utensils, stoves, oil, hazardous or harmful substances, industrial byproducts or waste, flammable matter or substances, debris, or any other material that constitutes a threat or menace to the health, safety or general welfare of the public. For the purposes of this Section only, the term "automobile body" shall be defined to mean any vehicle that (1) is unable to be driven upon a street under its own power and/or (2) that lacks all

of the necessary component parts to make it operable and serviceable as a vehicle. For purposes of this Section only, the term "trailer body" shall be defined to mean any boat trailer, utility trailer, horse or animal trailer, truck trailer, travel trailer or any type of trailer or device used for hauling or moving things that lacks all of the necessary component parts to make it operative and serviceable as a trailer to be pulled as such on a street. The provisions of this Section shall not be deemed to prohibit the storing or spreading of manure, fertilizers, or other soil conditioners as part of a farm operation.

B. No sewage, waste water or water containing foreign substances shall be deposited or drained onto any land or deposited or drained into any open ditch, creek, stream, lake, pond or other body of water unless the same has been first approved by the Michigan Department of Health and the Mid Michigan District Health Department.

C. No boxes, barrels, waste wood, scrap metal, automobile body, or other materials shall be accumulated by any person so as to provide insect, rat, or rodent harborage.

SECTION 3.51 GRADE LIMITS

Sand, dirt and similar materials shall not be used to build up or add to the natural grade of the land in connection with the installation, building, or expansion of a building or structure if such alteration would, in the opinion of the Zoning Administrator, do any of the following:

A. Unreasonably increase water runoff or drainage onto one or more adjoining properties due to the amount, concentration, or flowage rate of runoff waters; or

B. Increase the height of a building or structure so as to unreasonably decrease the view on one or more adjoining properties of a lake, stream, or natural vista or create a situation that is incompatible with the surrounding uses. Any party aggrieved by the decision of the Zoning Administrator under this section may appeal that determination to the Zoning Board of Appeals within the time limits and procedures specified in this Ordinance.

Chapter 4. Site Plan Review

SECTION 4.00 PURPOSE

The intent of this section is to provide for consultation and cooperation between the land developer, owner, Zoning Administrator and/or and the Planning Commission in order that the developer may accomplish objectives in the utilization of land within the regulations of the Ordinance, with minimum adverse effect on the land, shore, highways, and on existing and future uses of property in the immediate vicinity, and to insure that a proposed land use or activity is in compliance with this Ordinance.

SECTION 4.01 SITE PLAN REQUIRED

A. Site plan review and approval shall be required for all uses described in this Section before any change of use, or before any excavation, removal of soil, clearing of a site, or placing of any fill on lands contemplated for development; and, except as hereinafter provided, no building permit shall be issued for any Building or use, or reduction or enlargement in size or other alteration of any Building or change in use of any Building including Accessory Structures unless a site plan is first submitted and approved by the Planning Commission pursuant to the provisions of this Article.

B. All uses in the following districts shall require site plan approval:

OSC-1	Office Service Commercial – 1
OSC-2	Office Service Commercial – 2
GC	General Commercial
RC	Rural Commercial
IND	Industrial
PC	Public Conservation
PUD	Planned Unit Development

C. In the AG, RR, SR, MHR, UR districts, site plan approval shall be required for all uses including single-family and two-family dwellings, their accessory buildings and uses, and farming structures.

D. Site plan review and approval shall be required for all special land uses, and for all developments, including Single-Family Dwellings, to be located in wetland as defined by the Michigan Department of Natural Resources (DNR) or the Michigan Department of Energy, Great Lakes, and Environment (EGLE), or within a 100-year Floodplain as determined by FEMA.

E. Site plan review and approval shall not be required if the construction, alteration, or change of occupancy or use does not affect existing circulation, drainage, relationship of buildings to each other, landscaping, buffering, lighting, and other considerations of site plan review.

SECTION 4.02 OPTIONAL SKETCH PLAN REVIEW

A. Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to site plan review. The purpose of such procedure is to allow discussion between a developer and the Planning Commission, to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall include as a minimum the following:

   1. The name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership, together with telephone numbers.
   2. Legal description, property parcel number, and street address of the subject parcel of land.
   3. Sketch plans showing the tentative site and development plans.

B. The Planning Commission shall not be bound by any comments or tentative judgments made at this time and may require the applicant to sign an affidavit acknowledging the advisory nature of the sketch plan review process.

SECTION 4.03 APPLICATION PROCEDURE

A request for site plan review shall be made at least 30 days prior to the next regular Planning Commission meeting by filing with the Zoning Administrator the following:

A. An application for site plan review consisting of the following:

   1. A completed application form, as provided by the Township.
   2. Payment of a fee, in accordance with a fee schedule as determined by the Township Board.
   3. A legal description of the subject property.
   4. Ten copies and a PDF of the site plan, which shall include and illustrate at a minimum the following information:

      a. Small scale sketch of properties, streets, and use of land within one-half mile of the area.
      b. A site plan at a scale of not more than one inch equals 100 feet showing any existing or proposed arrangement of:
      c. Existing adjacent streets and proposed streets.
      d. Existing proposed lots.
      e. Parking lots and access points.
      f. Natural features including, but not limited to, open space, stands of trees, brooks, ponds, hills, and similar natural assets both on the subject property and within 100 feet of the property line.
      g. Location of any signs not attached to the building.
      h. Existing and proposed buildings.

i. Existing and proposed general topographical features including contour intervals no greater than two feet.

j. Present zoning of the subject property and adjacent property.

k. Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and types of construction of those upon the site.

l. Location and type of drainage, storm sewers, and other facilities, including surface and subsurface drainage for all impermeable surfaces on the site and all drainage calculations.

m. A landscape plan in accordance with Chapter 22.

n. Existing and proposed water main and sanitary sewer, natural gas, electric, telephone, cable television, and other utilities, the proposed location of connections to existing utilities, and any proposed extensions thereof.

o. Detail pertaining to proposed signage including an illustration of all proposed signs, their surface area, height, and nature of illumination.

p. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Zoning Administrator or the Planning Commission.

5. A narrative describing:

a. The overall objectives of the proposed development.

b. Number of acres allocated to each proposed use and gross area in building, structures, parking, public, and/or private streets and drives, and open spaces.

c. Dwelling unit densities by type, if applicable.

d. Proposed method of providing sewer and water service as well as other public and private utilities.

e. Proposed method of providing storm drainage.

B. Modification of Requirements. The Zoning Administrator or Planning Commission may waive the submission of certain materials outlined in this Section 4.03 if such materials are determined to be not pertinent to the application.

C. The Planning Commission or Zoning Administrator may require additional information to be illustrated on the site plan beyond what is required in this Section to consider the impact of the project upon adjacent properties and the general public. The Planning Commission or Zoning Administrator may also require the submission of special studies or research including, but not limited to, traffic impact studies, environmental impact statements, or hydrogeological studies to aid in the evaluation of any site plan.

SECTION 4.04 ACTION ON APPLICATION AND SITE PLANS

A. Upon receipt of the application and plans, the Zoning Administrator shall review the application materials for completeness. If complete, the Zoning Administrator shall transmit one copy to each Planning Commissioner; one copy to the Fire Department when applicable, one copy to other area review agencies when applicable, and retain one copy in the Township offices.

B. A Planning Commission meeting shall be scheduled for a review of the application and site plan. The meeting shall be held within 60 days of the date of the receipt of the completed plans and application.

C. The Planning Commission or Zoning Administrator may hold a public hearing on any application site plan review, though it is not required. If held, notice of such hearing shall be provided in accordance with Section 29.03 of this Ordinance.

D. After a public hearing, if held, the Planning Commission shall reject, approve, or conditionally approve the site plan, as it pertains to requirements and standards contained in this Ordinance. Any conditions required by the Planning Commission shall be stated in writing and delivered to the applicant.

E. The Planning Commission may attach reasonable conditions to the approval of a site plan.

SECTION 4.05 SITE PLAN REVIEW STANDARDS

In the process of reviewing a site plan, the Planning Commission shall consider all of the following:

A. That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township or the Road Commission for Montcalm County.

B. That the buildings structures and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.

C. That as many natural features of the landscape shall be retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

D. That any adverse effect of the proposed development and activities emanating therefrom upon adjoining properties, residents, or owners shall be minimized by appropriate screening, fencing, walls, or landscaping.

E. That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.

F. That all buildings and structures are accessible to emergency vehicles.

G. That a plan for erosion control, storm water discharge, has been approved by the appropriate public agency.

H. That the plan as approved is consistent with the intent and purpose of this Ordinance.

I. That the plan as approved is consistent with the goals, objectives, and future land use policies of the Eureka Charter Township Master Plan.

J. That the plan is reasonable.

SECTION 4.06 APPROVED SITE PLANS

A. Site Plan Approval. A site plan shall be approved if it contains the information required by, and is in compliance with, the Zoning Ordinance, the conditions imposed pursuant to the Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes. Three copies of the approved site plan and any supporting documents shall be signed by the Chairman or Secretary of the Planning Commission and the applicant. Two copies of the approved site plan shall be kept on file by the Township and the other copy shall be retained by the applicant.

B. Conformity to Approved Site Plans. Property that is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments or changes thereto which have received the approval of the Planning Commission or Zoning Administrator. If construction and development does not conform with such approved plans, the approval may be revoked or suspended by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.

C. Duration of Approval. An approved site plan shall be valid for a period of one (1) year after the date of approval. Upon written request by the applicant stating the reasons therefore, the Zoning Administrator may extend a site plan approval for an additional one (1) year period if the evidence shows that all of the following conditions exist:

1. The conditions necessitating the delay in the construction and completion of the project are reasonably beyond the control of the applicant.
2. The requirements and standards, including those of the zoning ordinance that are reasonably related to the development, have not changed.
3. Development or redevelopment in the proximity to the approved site plan has not resulted in changed conditions impacting the site.
4. There has not been a change in state or federal law, local charter, or other local ordinance prohibiting the construction or further construction of the approved project.
5. The Zoning Administrator may refer any extension of an approved site plan for a full decision by the Planning Commission at his/her discretion.
6. The Zoning Administrator may attach reasonable conditions to a site plan time extension.

D. An application for an extension of a site plan must be filed at least 60 days prior to the expiration of the original site plan or the expiration of any extension previously approved by the Township, whichever is applicable.

E. If a site plan expires pursuant to subsection 4.05 C, above, no work may be undertaken until a new site plan has been approved by the Planning Commission pursuant to the standards of this Chapter.

SECTION 4.07 CHANGES TO APPROVED SITE PLAN

No changes shall be made to an approved site plan prior to or during construction except upon application to the Zoning Administrator pursuant to the following standards:

A. Minor changes to an approved site plan involving changes in the location of buildings and structures, adjustment of utilities, walkways, trafficway, landscaping, and building size up to 10 percent of the approved area, parking areas, and similar minor changes may be approved by the Zoning Administrator. The Zoning Administrator shall report all administratively approved changes of a site plan to the Planning Commission at their next regularly scheduled meeting.

B. Major changes or amendments to an approved site plan involving a change in the number and location of accesses to public streets and alleys, a reduction in the number of parking spaces, a major relocation or of a building, and increase in the gross floor area or heights of buildings, a reduction in the open space, and similar major changes, shall require the approval of the Planning Commission in the same manner as the original application was submitted, reviewed, and approved.

SECTION 4.08 APPEALS

Site plan decisions may not be appealed to the Zoning Board of Appeals.

SECTION 4.09 PERFORMANCE GUARANTEES

In approving a site plan, the Planning Commission may require a performance guarantee pursuant to Section 29.06 of this Ordinance.

SECTION 4.10 REVOCATION

The Planning Commission may revoke an approved site plan after a public hearing for any violation of this Ordinance or the approved site plan.

Chapter 5. Zoning Districts and Boundaries

SECTION 5.00 ZONING DISTRICTS

For the purposes of regulating and restricting the location of buildings and sites for specific uses and also for the purpose of regulating and restricting volume, height, and area of buildings hereafter erected or altered, the following zoning districts are hereby designated within Eureka Charter Township:

AG	Agricultural
RR	Rural Residential
SR	Suburban Residential
UR	Urban Residential
MHR	Manufactured Housing Residential
PC	Public Conservation
PUD	Planned Unit Development
OSC-1	Office Service Commercial – 1
OSC-2	Office Service Commercial – 2
GC	General Commercial
RC	Rural Commercial
IND	Industrial
W	Waterfront Overlay

SECTION 5.01 ZONING MAP

The zoning districts are bounded and defined as shown on a map entitled, "Zoning Map, Eureka Charter Township, Montcalm County, Michigan" which, with all explanatory matter thereon, is hereby made a part of this Ordinance and is on file in the office of the Township Clerk.

SECTION 5.02 ZONING DISTRICT BOUNDARIES

Interpretation of District Boundaries. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerlines of streets, highways, or other public rights-of-way shall be construed to follow such centerlines.

B. Boundaries indicated as approximately following platted lot lines or Township limits shall be construed as following such lot lines or Township limits.

C. Boundaries indicated as following railroad lines shall be construed to be the midpoint between the main tracks.

D. Boundaries indicated as parallel to or extensions of features indicated in Section 5.03, A-C, shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

E. Where physical or natural features existing on the ground differ from those shown on the Zoning Map, or in other circumstances not covered by this Section, the Zoning Administrator shall interpret the district boundaries.

F. For the sake of map clarity, various districts may not cover public rights-of-way. It is intended that such district boundaries extend to the center of any public right-of-way.

G. Where district boundary lines divide a lot which was in single ownership and of record at the time of enactment of this Ordinance or amendment thereto, the least restricted portion of such lot shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within 25 feet of the said dividing district line.

SECTION 5.04 ZONING OF VACATED AREAS

Whenever all or part of a street or other public way is vacated, it shall automatically become a part of the district to which it attaches. If a vacated area is bordered by two different districts, the area is divided along a line halfway between them according to the adjacent district unless the Eureka Township Board designates otherwise.

SECTION 5.05 BUILDINGS AND LAND AFFECTED

Except as hereinafter expressly otherwise provided, all buildings and/or structures shall be erected or altered, and buildings, structures, and lands shall be used or altered only in conformance with all of the regulations of this Ordinance and also the district in which such lands, buildings, or structures are located.

Chapter 6. Agricultural District (AG)

SECTION 6.00 PURPOSE

Eureka Township has a strong agricultural base. The land use contributes to the economy of the Township, helps foster the area's rural character which is desired by many residents and adds to the overall quality of life within the greater Greenville regional area.

The Agricultural District recognizes the importance of farming to the Township and regional area. The District provides an opportunity for a wide range of general and specialized agricultural activities. The District also recognizes and supports low-density residential development, public lands, state game areas, and other uses that are considered compatible with the District.

SECTION 6.01 PERMITTED USES

The following uses shall be permitted by right:

A. Accessory Buildings and Uses including Non-Commercial Greenhouses

B. Adult Foster Care Family Home

C. Adult Foster Care Small Group Home

D. Cemetery and/or Crematorium

E. Child Care Family Home

F. Dwelling, Single-Family

G. Dwelling, Two-Family

H. Farm Market and Roadside Stand

I. Farms and Farm Operations

J. Public and Quasi-Public Uses

K. Riding Stable

L. Small Wind Energy System (SWES) pursuant to Chapter 26

M. Type I Home Based Business pursuant to Chapter 28

SECTION 6.02 SPECIAL LAND USES

The following uses shall be permitted with special land use approval:

A. Accessory Dwelling Unit (ADU)

B. Adult Foster Care Large Group Home

C. Bed and Breakfast Inn

D. Campground

E. Child Care Group Home

F. Club or Lodge

G. Golf Course

H. Greenhouse (Commercial)

I. Kennel

J. Large Wind Energy System (LWES) pursuant to Chapter 26

K. Mining

L. Outdoor Recreation

M. Place of Public Assembly, Small

N. Sawmill

O. Type II Home Based Business pursuant to Chapter 28

P. Utility Grid Wind Energy System pursuant to Chapter 26

Q. Wireless Communication Facility

R. Solar Energy Systems, pursuant to Chapter 27

SECTION 6.03 SITE DEVELOPMENT REQUIREMENTS

A. All permitted uses and special land uses are subject to the following site development requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 6.1 Agricultural District Regulations

Dimensional Standard	AG District
Minimum Lot Area	3 acres
Minimum Lot Width	300 feet
Minimum Front Yard Setback	50 feet
Minimum Side Yard Setback (per side)	20 feet
Minimum Rear Yard Setback	20 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	35%
Lot Depth to Width Ratio	4:1
Minimum Dwelling Floor Area (DFA)	1,000 square feet, plus 200 square feet for each additional bedroom beyond two bedrooms

B. Condominiums, site condominiums, and subdivisions (plats) are not permitted in the AG district.

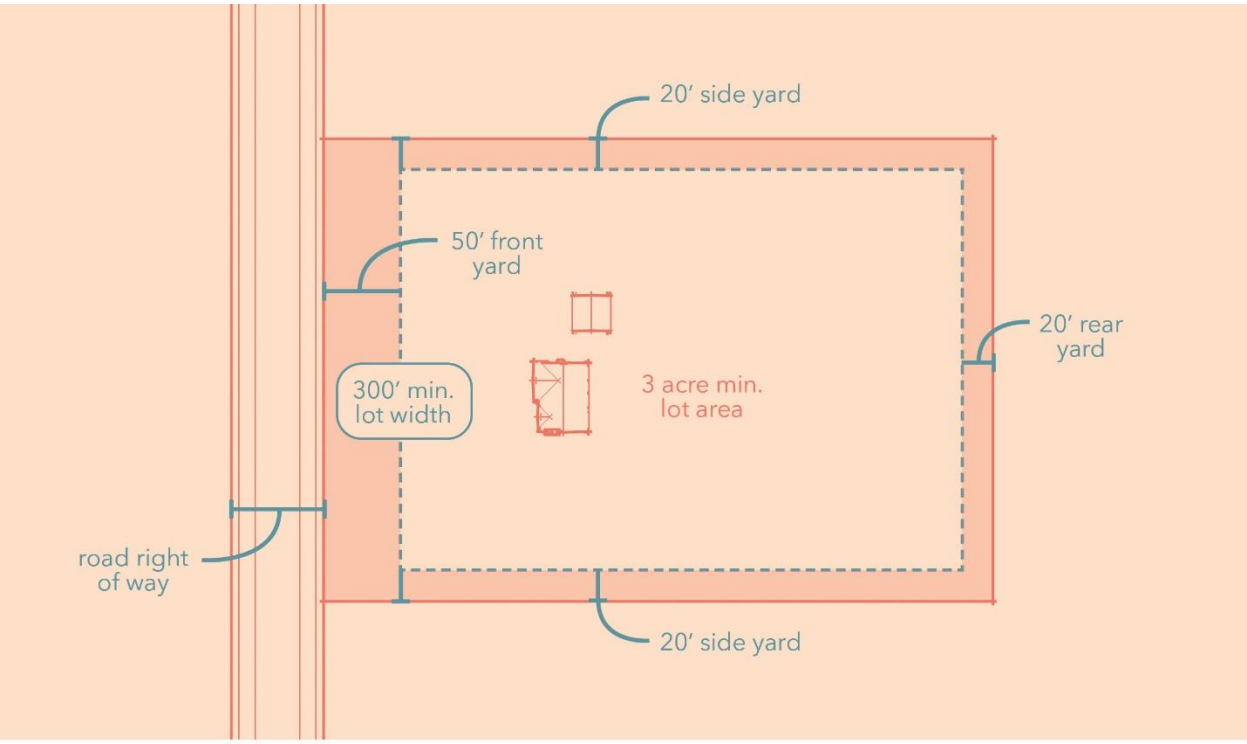


FIGURE 6.1 AG DISTRICT REGULATIONS

Chapter 7. Rural Residential District (RR)

SECTION 7.00 PURPOSE

The purpose of the Rural Residential District is to provide opportunity for residential development in rural settings. Rural Residential development is typified by larger lots and parcels which are often interspersed with farms, wooded lots, and open spaces. The District does not possess public water or sanitary sewer systems, nor are such systems planned in the near future.

SECTION 7.01 PERMITTED USES

The following uses shall be permitted by right:

A. Accessory Buildings and Uses

B. Adult Foster Care Family Home

C. Adult Foster Care Small Group Home

D. Cemetery and/or Crematorium

E. Child Care Family Home

F. Dwelling, Single-Family

G. Dwelling, Two-Family

H. Farm Market and Roadside Stand

I. Farms and Farm Operations

J. Public and Quasi-Public Uses

K. Riding Stable

L. Small Wind Energy System (SWES) pursuant to Chapter 26.

M. Type I Home Based Business pursuant to Chapter 28

SECTION 7.02 SPECIAL LAND USES

The following uses shall be permitted with special land use approval:

A. Accessory Dwelling Unit (ADU)

B. Adult Foster Care Large Group Home

C. Bed and Breakfast Inn

D. Campground

E. Child Care Group Home

F. Golf Course

G. Greenhouse (Commercial)

H. Place of Public Assembly, Small

I. Type II Home Based Business pursuant to Chapter 28

J. Utility Grid Wind Energy Systems pursuant to Chapter 26

K. Wireless Communication Facility

L. Solar Energy Systems, pursuant to Chapter 27

SECTION 7.03 SITE DEVELOPMENT REQUIREMENTS

A. All permitted uses and special land uses are subject to the following site development requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 7.1 Rural Residential District Regulations

Dimensional Standard	RR District
Minimum Lot Area	2 acres
Minimum Lot Width	200 feet
Minimum Front Yard Setback	35 feet
Minimum Side Yard Setback (per side)	20 feet
Minimum Rear Yard Setback	50 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	30%
Lot Depth to Width Ratio	4:1
Minimum Dwelling Floor Area (DFA)	1,000 square feet, plus 200 square feet for each additional bedroom beyond two bedrooms

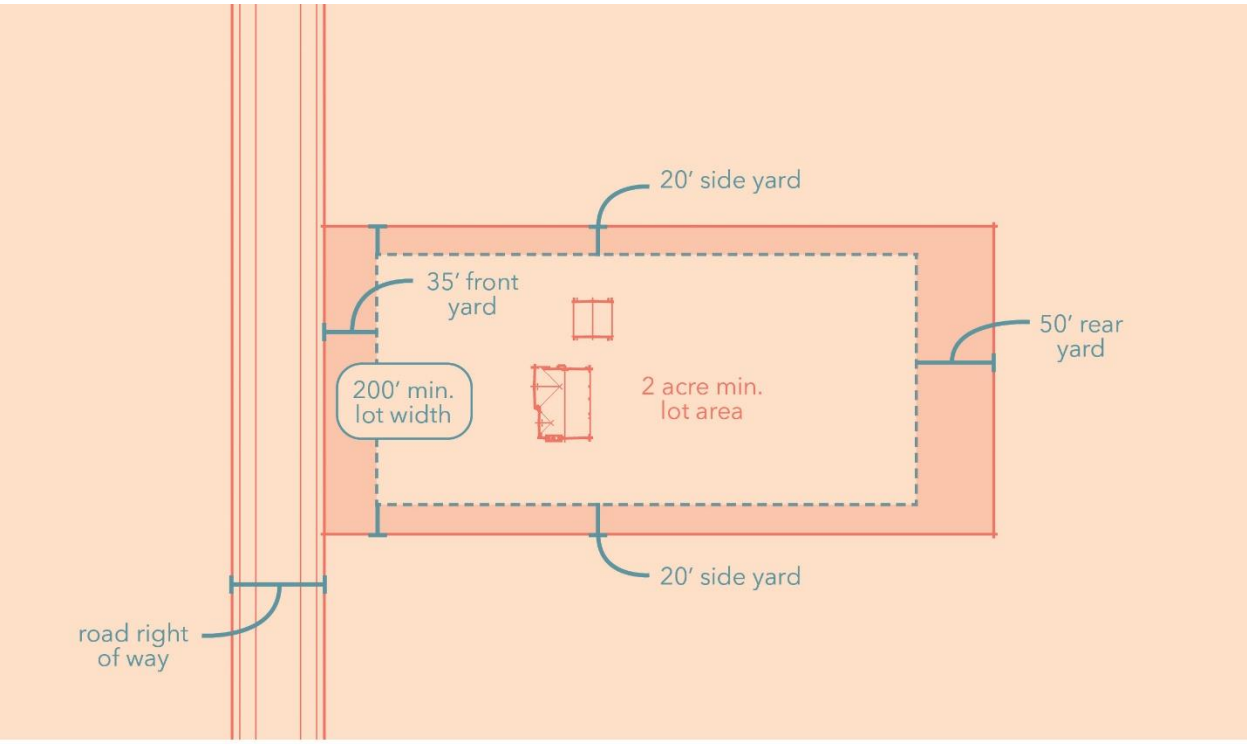


FIGURE 7.1 RR DISTRICT REGULATIONS

Chapter 8. Suburban Residential District (SR)

SECTION 8.00 PURPOSE

The purpose of the Suburban Residential District is to provide an opportunity for single-family residential development of a low to moderately low-density character. The District often serves as a transition area, separating the rural sectors of the Township from those more urban in character. The Suburban Residential District supports lots and parcels of sufficient size to accommodate on-site wells and sanitary systems but also recognizes the possibility of reduced lot and parcel size where public utilities, or comparable private systems, become available.

SECTION 8.01 PERMITTED USES

The following uses shall be permitted by right:

A. Accessory Buildings and Uses

B. Adult Foster Care Family Home

C. Adult Foster Care Small Group Home

D. Child Care Family Home

E. Dwelling, Single-Family

F. Dwelling, Two-Family

G. Farm Market and Roadside Stand

H. Farms and Farm Operations

I. Public and Quasi-Public Uses

J. Small Wind Energy System (SWES) pursuant to Chapter 26.

K. Type I Home-based Business, pursuant to Chapter 28.

SECTION 8.02 SPECIAL LAND USES

The following uses shall be permitted with special land use approval:

A. Accessory Dwelling Unit (ADU)

B. Adult Foster Care Large Group Home

C. Cemetery and/or Crematorium

D. Child Care Group Home

E. Place of Public Assembly, Small

F. Solar Energy Systems, pursuant to Chapter 27

G. Type II Home-based Business, pursuant to Chapter 28

SECTION 8.03 SITE DEVELOPMENT REQUIREMENTS

A. All permitted uses and special land uses are subject to the following site development requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 8.1 Suburban Residential District Regulations

Dimensional Standard	SR District
Minimum Lot Area	0.75 acres
Minimum Lot Width	130 feet
Minimum Front Yard Setback	35 feet
Minimum Side Yard Setback (per side)	10 feet
Minimum Rear Yard Setback	40 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	40%
Lot Depth to Width Ratio	4:1
Minimum Dwelling Floor Area (DFA)	1,000 square feet, plus 200 square feet for each additional bedroom beyond two bedrooms

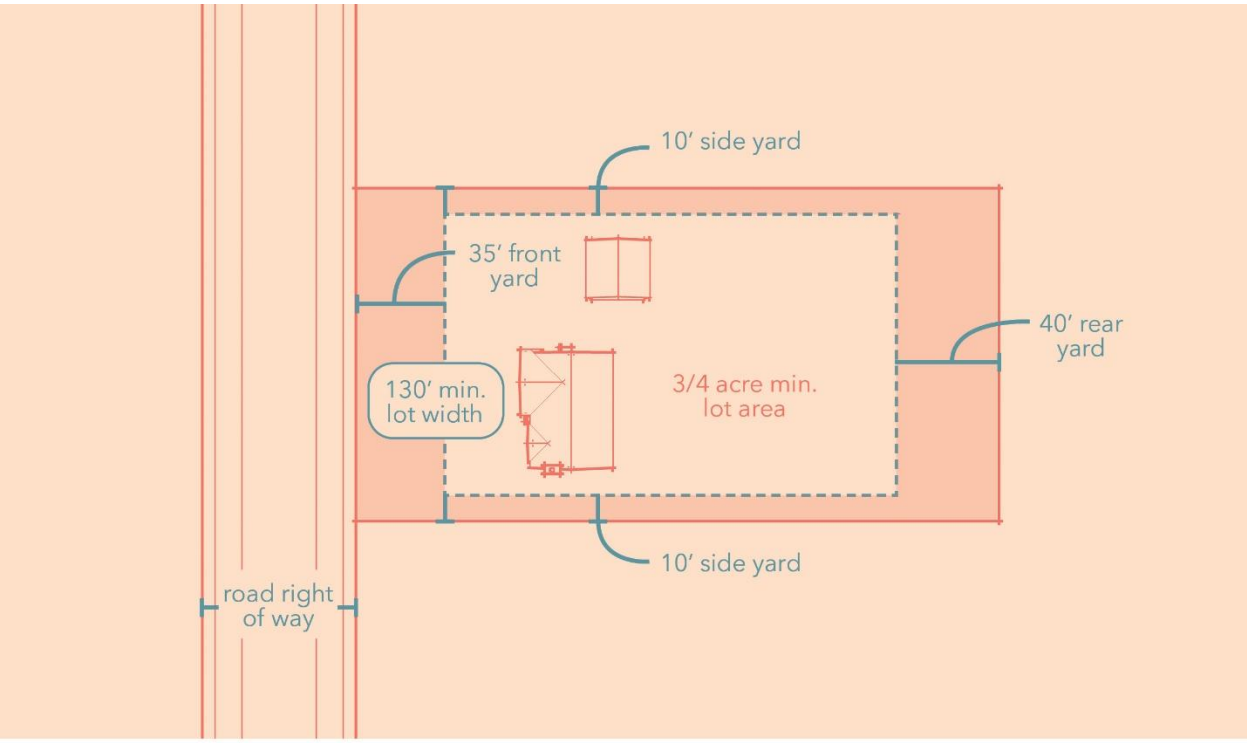


FIGURE 8.1 SR DISTRICT REGULATIONS

Chapter 9. Urban Residential District (UR)

SECTION 9.00 PURPOSE

The purpose of the Urban Residential District is to provide an opportunity for residential development of moderate to higher density. The district permits a range of residential housing types and uses of a compatible nature. These include single-family dwellings, duplexes, apartments, elder care facilities, and senior housing. The District is characterized by close proximity to urban amenities such as retail facilities and public services. Higher density development permitted by the district is predicated on the presence of public water and sanitary sewer systems or comparable private systems, the presence of all-season roads to support higher traffic volume, and related amenities characteristic of higher density settings.

SECTION 9.01 PERMITTED USES

The following uses shall be permitted by right:

A. Accessory Buildings and Uses

B. Adult Foster Care Family Home

C. Adult Foster Care Small Group Home

D. Child Care Family Home

E. Dwelling, Single-Family

F. Dwelling, Two-Family

G. Public and Quasi-Public Uses

H. Small Wind Energy System (SWES) pursuant to Chapter 26.

I. Type I Home-based Business pursuant to Chapter 28.

SECTION 9.02 SPECIAL LAND USES

The following uses shall be permitted with special land use approval:

A. Accessory Dwelling Unit (ADU)

B. Adult Foster Care Congregate Facility

C. Assisted Living Center

D. Child Care Group Home

E. Convalescent or Nursing Home

F. Dwelling, Multiple-Family

G. Place of Public Assembly, Small

H. Solar Energy Systems, pursuant to Chapter 27

SECTION 9.03 SITE DEVELOPMENT REQUIREMENTS

A. All permitted uses and special land uses are subject to the following site development requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 9.1 Urban Residential District Regulations

Dimensional Standard	UR District
Minimum Lot Area	0.75 acres
Minimum Lot Width	130 feet
Minimum Front Yard Setback	35 feet
Minimum Side Yard Setback (per side)	10 feet
Minimum Rear Yard Setback	30 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	40%
Lot Depth to Width Ratio	4:1
Minimum Dwelling Floor Area (DFA)	1,000 square feet, plus 200 square feet for each additional bedroom beyond two bedrooms

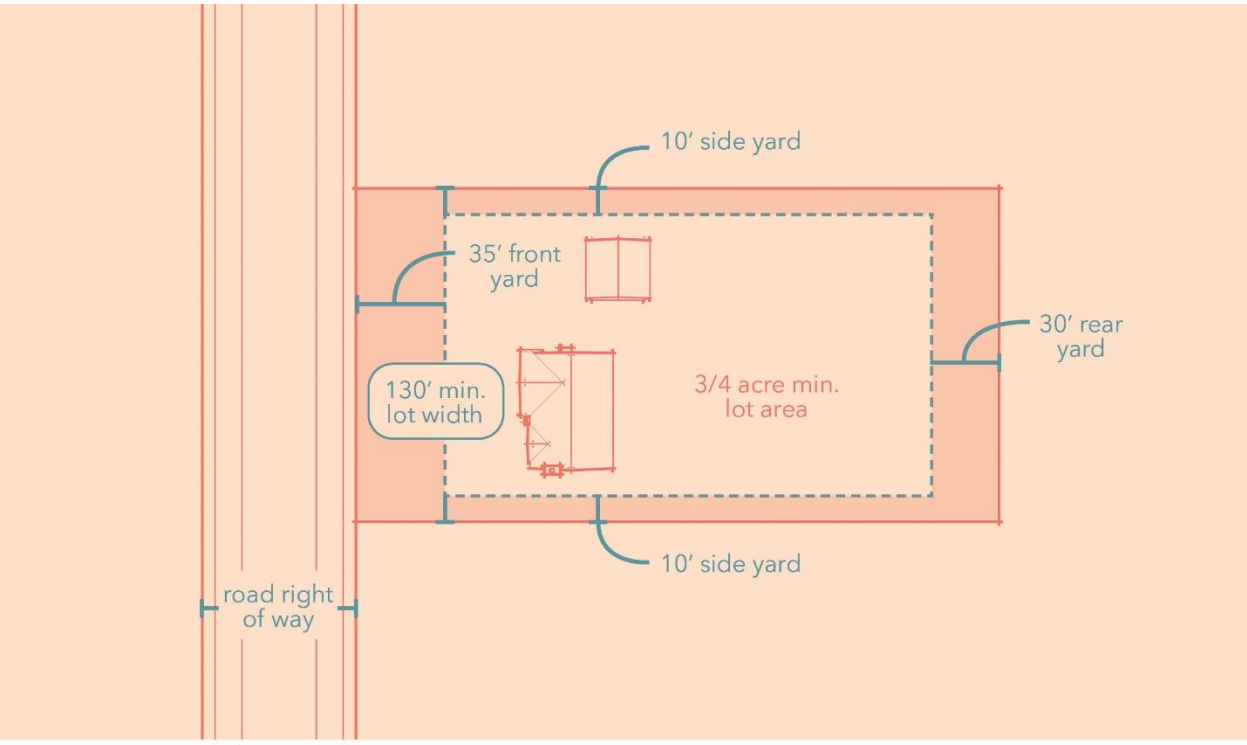


FIGURE 9.1 UR DISTRICT REGULATIONS

Chapter 10. Manufactured Housing Residential District (MHR)

SECTION 10.00 PURPOSE

The purpose of the Manufactured Housing Residential District is to provide opportunity for the location of manufactured home parks within which single-family detached dwellings of varying types may be placed in an integrated, planned manner. Housing density may range from moderate to moderately high. The District is characterized by close proximity to urban amenities such as retail facilities and public services. Higher density development permitted by the District is predicated on the presence of public water and sanitary sewer systems, or comparable private systems, the presence of all-season roads to support higher traffic volumes, and related amenities characteristic of higher density settings. In addition to review and approval by the Township, Manufactured Home Parks are also subject to review and approval by the State of Michigan.

SECTION 10.01 PERMITTED USES

The following uses shall be permitted by right:

A. Accessory Buildings and Uses

B. Adult Foster Care Family Home

C. Adult Foster Care Small Group Home

D. Child Care Family Home

E. Dwelling, Single-Family

F. Manufactured Home Park

G. Public and Quasi-Public Uses

H. Type I Home-based business pursuant to Chapter 28

SECTION 10.02 SPECIAL LAND USES

The following uses shall be permitted with special land use approval:

A. Child Care Group Home

SECTION 10.03 SITE DEVELOPMENT REQUIREMENTS

A. All permitted uses and special land uses are subject to the following site development requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

B. In the event a dwelling is located in the MHR District but outside the confines of a Manufactured Home Park, said dwelling must meet or exceed the dimensional standards of the SR District.

C. The site development requirements of the manufactured housing commission, together with any other applicable requirements of the State of Michigan, Act 96 of 1987, as amended, shall be satisfied.

No manufactured housing community shall be maintained, operated, or conducted without an annual license from the Michigan Department of Licensing and Regulatory Affairs (LARA) or other agency having jurisdiction. An inspection of construction may be performed at any appropriate time, pursuant to 1987 PA 96, as amended (the Mobile Home Commission Act).

Chapter 11. Public Conservation (PC)

SECTION 11.00 PURPOSE

State game lands play a critical role in providing wildlife habitats and outdoor resource-based recreation for residents in the Township. The Public Conservation District includes all land under state ownership that comprises the Flat River State Game Area (Flat River SGA). The Flat River State Game Area (SGA) is an important land use in the community, so it is the intent of this District to protect its unique natural features for current and future enjoyment of Township residents. To help preserve these features, this district limits development of buildings intended for human habitation and encourages natural open space preservation. It is further the intent of this district to discourage development that would degrade natural features and promote those which encourage sustainable use of natural resources and recreation.

SECTION 11.01 PERMITTED USES

The following uses are permitted by right:

A. Accessory Buildings and Uses*

B. Cemetery and/or Crematorium

C. Public and Quasi-Public Uses

D. Small Wind Energy System (SWES) pursuant to Chapter 26

All accessory buildings and uses in the Flat River SGA shall be permitted and approved by the Michigan Department of Natural Resources (DNR).

SECTION 11.02 SPECIAL LAND USES

The following uses are permitted with special land use approval:

A. Large Wind Energy System (LWES) pursuant to Chapter 26

B. Solar Energy Systems, pursuant to Chapter 27

SECTION 11.03 SITE DEVELOPMENT REQUIREMENTS

All permitted uses and special land uses are subject to the following site development requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 11.1. Public Conservation District Regulations

Dimensional Standard	PC District
Minimum Lot Area	N/A
Minimum Lot Width	N/A
Minimum Front Yard Setback	35 feet
Minimum Side Yard Setback (per side)	10 feet

Minimum Rear Yard Setback	40 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	40%
Lot Depth to Width Ratio	4:1
Minimum Dwelling Floor Area (DFA)	N/A

Chapter 12. Waterfront Overlay District (WOD)

SECTION 12.00 PURPOSE

The Waterfront Overlay District is a supplementary zoning district that only applies to designated lands, as shown on the Zoning Map. This district is applied simultaneously with one of the other zoning districts established in this Ordinance, hereinafter referred to as the "underlying" zoning district. The use of a lot within the Waterfront Overlay District shall comply with both the Waterfront Overlay District and the underlying Zoning District. Lands included in the Waterfront Overlay District have frontage on the Township's lakes, the Flat River, or Wabasis Creek. These water features are recognized to have environmental, aesthetic, economic, and recreational value. As a Designated Natural River, the Flat River and its tributary, Wabasis Creek, provide exceptional wildlife habitat, scenery, ecologic and historic value, and recreational uses. Therefore, the intent of this district to preserve and protect the Township's natural water features and ensure that structures and uses in this overlay district are compatible with these unique attributes.

SECTION 12.01 PERMITTED USES

Land, structures, and buildings in this overlay district may be used only for those uses listed as either a permitted use or a special land use in the underlying zoning district in which the land is located.

SECTION 12.02 DISTRICT STANDARDS

The following are requirements for waterfront properties or parcels located in any zoning district. All structures constructed, land divisions, or lot line adjustments made, after the adoption of this Chapter, shall meet the following standards:

A. General Standards.

1. Construction of principal dwelling units and accessory structures in designated wetlands and flood zones A or B, per FEMA FIRM map dated 11/15/1984, is strictly prohibited unless Michigan EGLE or DNR permits are obtained for certain structures (such as docks, walkways, and boat houses).
2. Setback standards for construction of principal residences and accessory structures shall begin from the 100-year, 500-year, or established high water mark boundary as the front lot line. No building shall be located within 50 feet of the ordinary high water mark.
3. Accessory buildings may be located in either the front or rear yard, but shall meet the same setback standards as a principal structure.
4. A strip of vegetation 25 feet wide shall be maintained parallel to the water and adjacent to the normal high water line, not to obstruct the view or use, but to provide for erosion control and run-off filtration.
5. Accessory structures shall not extend into the waterway so as to encroach upon the neighbor's riparian rights, view, and use of the waterfront.
6. Water access such as walkways, trails, paths, ingress/egress easements, common areas, shared

ownership, and use of beaches and docks, private parks, playgrounds and boat launches provided to non-waterfront lots through private property (keyholing) is prohibited. The intent is to limit water access to only approved waterfront lots.

7. Sanitary facilities, such as septic tanks and drain fields, shall be set back 100 feet from the ordinary high water mark or the 100-year floodplain, whichever is greater. No part of the disposal system shall be located between the dwelling and the ordinary high watermark or 100-year floodplain.

8. Any excavation or bringing in of fill conducted within 330 feet of any body of water or wetland shall have soil erosion and sedimentation control measures taken pursuant to Michigan EGLE standards.

9. Those applying lawn or field chemicals within 300 feet of any body of water shall ensure that migration of chemicals is minimized and that application of the chemicals complies with Michigan EGLE standards and that those applying the chemicals are properly licensed by EGLE.

B. Flat River and Wabasis Creek. Additional development standards shall be applicable to the Flat River and Wabasis Creek, as administered by the State of Michigan under the authority of Part 305, Natural Rivers of PA 451 of 1994, and the DNR Natural River Zoning rules promulgated thereunder. These standards apply to all property located within 400 feet of the Flat River and Wabasis Creek.

1. Applicability. A Natural River Program zoning permit is required for all construction activities, foot and vehicle bridges, clearing of vegetation within 25 feet of the water, land alteration, septic system location, utility lines, home occupations, campgrounds, docks, stairways, boardwalks, mining extraction, bank stabilization, and fisheries habitat improvement activities, and land divisions, except for those activities identified under the DNR Natural Rivers Zoning rules. Property owners should refer to the DNR, Natural River Zoning rules, effective September 19, 2013, for specific standards.

2. Setbacks.

   a. Single-family dwellings, accessory buildings, and appurtenances shall have a minimum setback of 100 feet from the ordinary high-water mark or 25 feet from the 100-year floodplain, whichever is greater.

   b. Single-family dwellings, accessory buildings, and appurtenances shall be set back a minimum of 50 feet from the top of a bluff.

   c. A disposal field or septic tank shall have a minimum setback of 100 feet from the ordinary high-water mark and a minimum of 100 feet from any surface or subsurface drain that discharges into the Flat River or Wabasis Creek.

   d. Mining and extracting activities, including all land disturbances, structures, and other mining activities, shall have a minimum setback of 300 feet from the ordinary high-water mark.

3. Development and Land Alterations.

   a. A natural vegetation strip that includes the river and all lands within 25 feet of the ordinary high-water mark shall be maintained on each side of the Flat River and Wabasis Creek. Trees

and shrubs may be pruned over not more than a 50-foot width for a filtered view of the river.

b. The natural contour of the face and crest of the bluff shall not be altered.

c. The land between the crest of the bluff and the minimum building setback line shall not be altered, except for minor landscaping activities.

d. A disposal field shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

e. A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

4. Docks. One private dock shall be permitted per parcel, subject to the following standards:

a. A dock shall not be more than 48 square feet in area, with not more than 4 feet of dock extending over the edge of the river.

b. A dock shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.

5. Stairways. One private stairway constructed to allow river access shall conform to all of the following standards:

a. A stairway is not permitted unless no other reasonable and safe access to the river exists.

b. A stairway shall be low-profile, not more than four feet wide and constructed without stairs being recessed into the ground surface, except if site and soil conditions dictate that a recessed stairway is appropriate.

c. A landing shall not be constructed unless required by building code, in which case the landing shall be the minimum number and size required by building code.

d. Not more than one handrail shall be associated with a stairway.

e. A stairway shall be constructed using natural materials.

f. A stairway shall be located and maintained to blend with the natural surroundings, and where removal of vegetation in the natural vegetation strip can be minimized.

6. Minimum Parcel Size. The division of any lot created after June 21, 1984, is permitted only if all of the following provisions are met:

a. The lot shall be accessible by a public road or legal easement on at least one side of the stream.

b. The lot shall have at least 150 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 100 feet wide at the minimum building setback line.

c. The lot shall contain at least 30,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line on the parcel

is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

d. The lot shall have sufficient depth and upland area to accommodate the required building setbacks pursuant to the standards in this rule.

e. A lot that exists on June 21, 1984, shall not be subdivided or reduced in dimension or area below the minimum requirements of this Chapter. Any lot created after June 21, 1984, shall meet the minimum requirements of this rule.

C. Required Setbacks.

Table 12.1. Waterfront Overlay District Regulations

Dimensional Standard	WF Overlay District
Minimum lot width at waterfront	150 feet
Minimum front yard setback	50 feet
Minimum side yard setback	10 feet
Minimum rear yard setback	35 feet
Maximum building height	35 feet
Maximum lot coverage (buildings/paving)	40%
Lot depth to width ratio	4:1
Minimum building set back standard for buildings within the State Natural River Zoning Standards area	100 feet from the ordinary high-water mark, or not less than 25 feet from the 100-year floodplain line, whichever is the greater distance from the river's edge.
A dwelling shall be set back not less than 50 feet from the top of a bluff.	

D. Additional Regulations. See also Section 3.34 of this Ordinance (entitled "Lake Access and Frontage").

Chapter 13. Office Service Commercial 1 District (OSC-1)

SECTION 13.00 PURPOSE

The OSC-1 District encompasses a portion of the business area located on or near M-57 west of the City of Greenville. Due to its proximity to Greenville, combined with M-57 traffic volumes and nearby housing development, the OSC-1 District is anticipated to experience significant demand for future commercial use. The OSC-1 District is designed to accommodate large parcel development with particular emphasis on the use of the planned unit development techniques and the careful application of appropriate site design considerations.

SECTION 13.01 PERMITTED USES

The following uses are permitted by right:

A. Accessory Buildings and Uses

B. Art Gallery

C. Bakery

D. Eating and Drinking Establishment

E. Financial Institution

F. Government Building

G. Indoor Recreation Facility

H. Personal Service Establishment

I. Place of Public Assembly, Small

J. Professional Office

K. Retail Establishment, Minor

SECTION 13.02 SPECIAL LAND USES

The following uses are permitted with special land use approval:

A. Educational Facility

B. Greenhouse

C. Hotel/Motel

D. Medical Office

E. Open Air Business

F. Place of Public Assembly, Large

G. Retail Establishment, Major

H. Solar Energy Systems, pursuant to Chapter 27

SECTION 13.03 SITE DEVELOPMENT REQUIREMENTS

All permitted uses and special land uses are subject to the following site development requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 13.1. Office Service Commercial-1 District Regulations

Dimensional Standard	OSC-1 District
Minimum Lot size Area	2 acres
Minimum Lot frontage Width	300 feet
Minimum Front Yard Setback	75 feet
Minimum Side Yard Setback (per side)	25 feet
Minimum Rear Yard Setback	25 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	50%
Lot Depth to Width Ratio	4:1

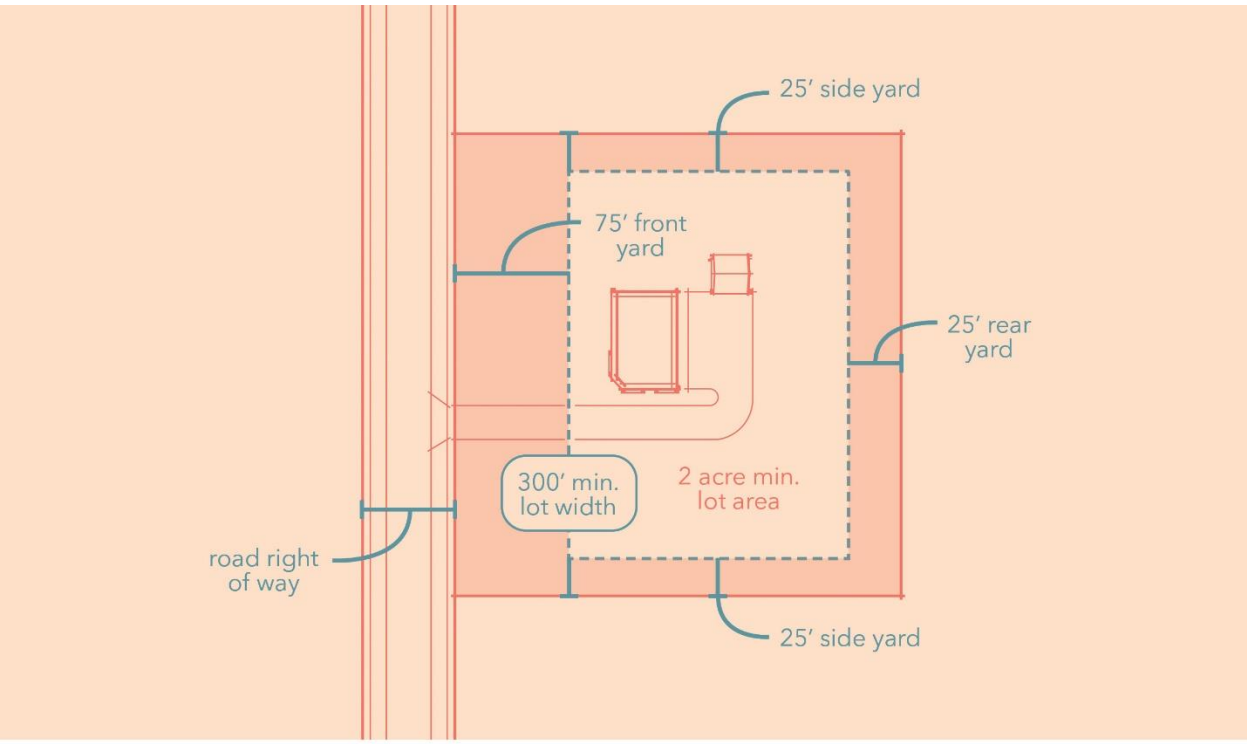


FIGURE 13.1 OSC-1 DISTRICT REGULATIONS

Chapter 14. Office Service Commercial 2 District (OSC-2)

SECTION 14.00 PURPOSE

Office Service Commercial-2 (OSC-2) – The OSC-2 District encompasses a portion of the business area located on or near M-57 west of the City of Greenville. The OSC-2 District lies adjacent to the OSC-1 District, however, unlike the OSC-1 District, this District is designed to accommodate large parcel development with particular emphasis on the sale of automobiles, light trucks, and recreational vehicles. These uses presently exist along the M-57 corridor and are likely to continue into the future.

SECTION 14.01 PERMITTED USES

The following uses are permitted by right:

A. Accessory Buildings and Uses

B. Art Gallery

C. Automobile Sales Facility

D. Automobile Service and Repair Facility, Minor

E. Bakery

F. Eating and Drinking Establishment

G. Financial Institution

H. Funeral home

I. Government Building

J. Indoor Recreation Facility

K. Medical Office

L. Open Air Business

M. Personal Service Establishment

N. Place of Public Assembly, Small

O. Professional Office

P. Professional Service Establishment

Q. Retail Establishment, Minor

R. Small Wind Energy System (SWES)

SECTION 14.02 SPECIAL LAND USES

The following uses are permitted with special land use approval:

A. Adult Day Care Facility

B. Automobile Gasoline Station

C. Automobile Wash

D. Building Materials Sales and Storage

E. Child Care Center

F. Contractor's Establishment

G. Educational Facility

H. Greenhouse

I. Hospital

J. Hotel/Motel

K. Mini-Storage Facility

L. Nursing Home

M. Outdoor Storage Facility or Yard

N. Permitted Uses with Drive Through Facilities

O. Place of Public Assembly, Large

P. Retail Establishment, Major

Q. Solar Energy Systems, pursuant to Chapter 27

SECTION 14.03 SITE DEVELOPMENT REQUIREMENTS

All permitted uses and special land uses are subject to the following site development requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 14.1. Office Service Commercial-1 District Regulations

Dimensional Standard	OSC-2 District
Minimum Lot size Area	2 acres
Minimum Lot frontage Width	300 feet
Minimum Front Yard Setback	75 feet
Minimum Side Yard Setback (per side)	25 feet
Minimum Rear Yard Setback	25 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	50%
Lot Depth to Width Ratio	4:1

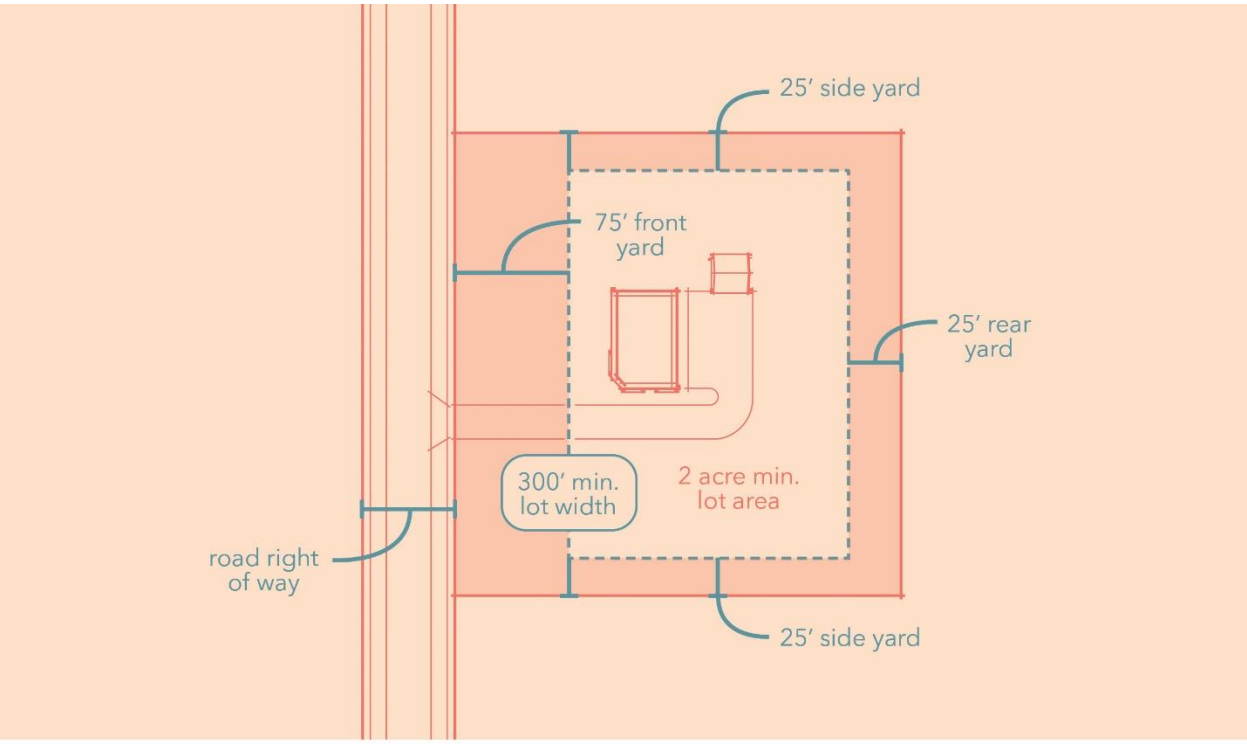


FIGURE 14.1 OSC-2 DISTRICT REGULATIONS

Chapter 15. General Commercial District (GC)

SECTION 15.00 PURPOSE

The GC District focuses on the commercial area lying along M-91 north of the City of Greenville's downtown. The GC District experiences high levels of both local and regional traffic. Due to historic development patterns and proximity to the City's downtown, the GC District supports a wide range of business opportunities.

SECTION 15.01 PERMITTED USES

The following uses are permitted by right:

A. Accessory Buildings and Uses
B. Animal Grooming Service
C. Art Gallery
D. Automobile Sales Facility
E. Automobile Service and Repair Facility, Minor
F. Bakery
G. Eating and Drinking Establishment
H. Financial Institution
I. Government Building
J. Indoor Recreation Facility
K. Medical Office
L. Personal Service Establishment
M. Place of Public Assembly, Small
N. Professional Office
O. Professional Service Establishment
P. Retail Establishment, Minor
Q. Small Equipment Rental and Repair

SECTION 15.02 SPECIAL LAND USES

The following uses are permitted with special land use approval:

A. Adult Day Care Facility
B. Animal Day Care Facility
C. Automobile Gasoline Station
D. Automobile Service and Repair Facility, Major
E. Automobile Wash

F. Building Materials Sales and Storage

G. Child Care Center

H. Club or Lodge

I. Funeral home

J. Greenhouse

K. Hospital

L. Hotel/Motel

M. Laundromat

N. Manufacturing, Processing, and/or Assembly, Small

O. Mini-Storage Facility

P. Nursing Home

Q. Open Air Business

R. Outdoor Recreation

S. Outdoor Storage Facility or Yard

T. Permitted Uses with Drive Through Facilities

U. Place of Public Assembly, Large

V. Retail Establishment, Major

W. Tattoo Parlor

X. Truck/Freight Terminal

Y. Television or Radio Station

Z. Veterinary Office

AA. Warehouse

BB. Wireless Communication Facility

CC. Solar Energy Systems, pursuant to Chapter 27

SECTION 15.03 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 15.1. General Commercial District Regulations

Dimensional Standard	GC District
Minimum Lot Area	18,000 square feet
Minimum Lot Width	100 feet
Minimum Front Yard Setback	50 feet

Minimum Side Yard Setback (per side)	10 feet
Minimum Rear Yard Setback	20 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	75%
Lot Depth to Width Ratio	4:1
Minimum Dwelling Floor Area (DFA)	18,000 sq. ft.

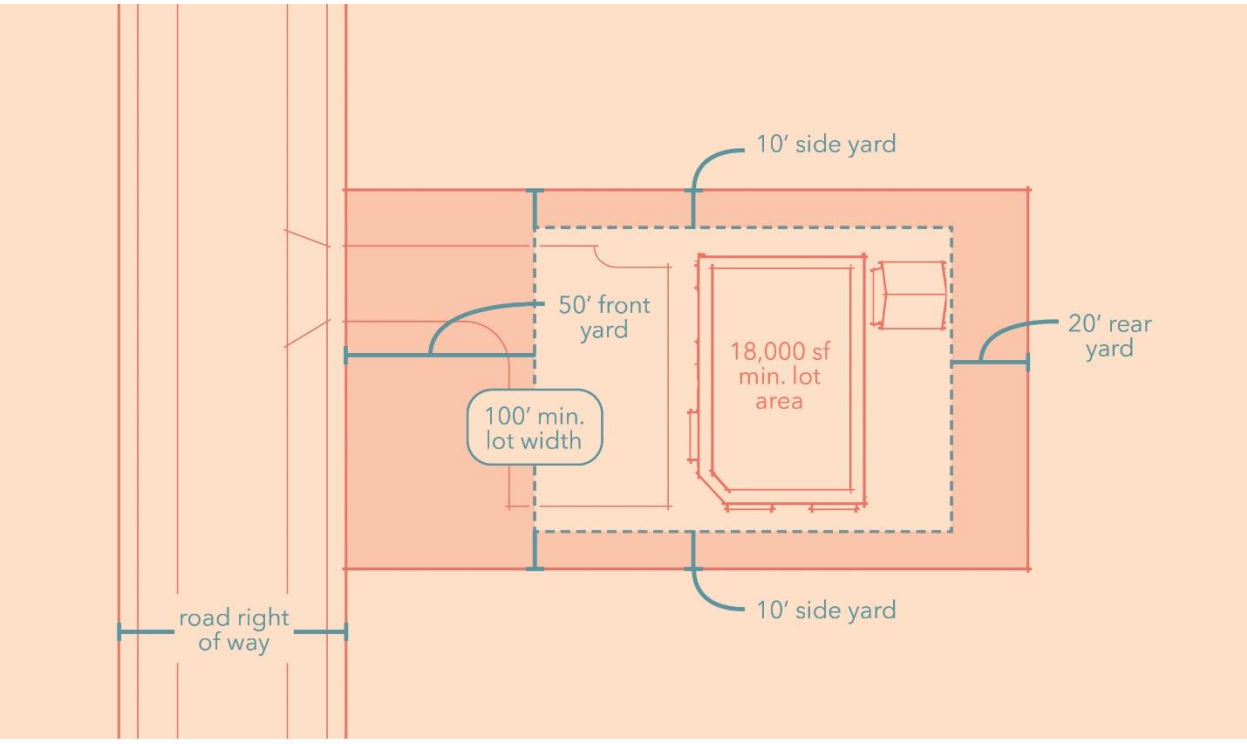


FIGURE 15.1 GC DISTRICT REGULATIONS

Chapter 16. Rural Commercial District (RC)

SECTION 16.00 PURPOSE

The RC District is found along select sectors of M-91 south of the City of Greenville. The RC District experiences moderate levels of local and regional traffic. The range of uses for which the RC District provides is limited due to such factors as the distance from high population concentrations, lack of public utilities, nearby presence of large quantities of non-developed public land, and the rural character of the surrounding area.

SECTION 16.01 PERMITTED USES

The following uses are permitted by right:

A. Accessory Buildings and Uses
B. Automobile Sales Facility
C. Automobile Service and Repair Facility, Minor
D. Bakery
E. Government Building
F. Indoor Recreation Facility
G. Medical Office
H. Personal Service Establishment
I. Professional Office
J. Retail Establishment, Minor
K. Small Equipment Rental and Repair
L. Small Wind Energy System (SWES)

SECTION 16.02 SPECIAL LAND USES

The following uses are permitted with special land use approval:

A. Animal Grooming Service
B. Automobile Service and Repair Facility, Major
C. Automobile Wash
D. Club or Lodge
E. Contractor's Establishment
F. Eating and Drinking Establishment
G. Kennel
H. Manufacturing, Processing, and/or Assembly, Small
I. Mini-Storage Facility

J. Open Air Business

K. Outdoor Storage Facility or Yard

L. Permitted Uses with Drive Through Facilities

M. Place of Public Assembly, Small or Large

N. Veterinary Office

O. Warehouse

P. Wireless Communication Facility

Q. Solar Energy Systems, pursuant to Chapter 27

SECTION 16.03 SITE DEVELOPMENT REQUIREMENTS

All permitted uses and special land uses are subject to the following site development requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 16.1. Rural Commercial District Regulations

Dimensional Standard	RC District
Minimum Lot Area	1 acre
Minimum Lot Width	200 feet
Minimum Front Yard Setback	50 feet
Minimum Side Yard Setback (per side)	15 feet
Minimum Rear Yard Setback	20 feet
Maximum Building Height	35 feet
Maximum Lot Coverage	60%
Lot Depth to Width Ratio	4:1

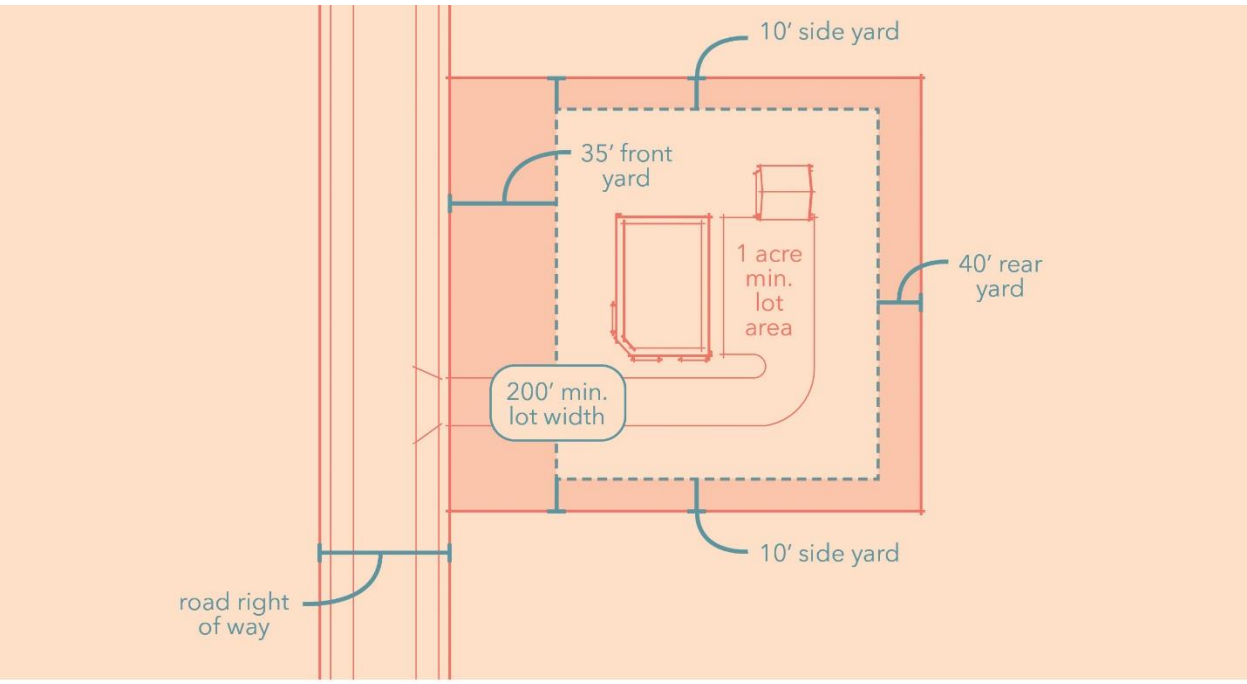


FIGURE 16.1 RC DISTRICT REGULATIONS

Chapter 17. Industrial District (IND)

SECTION 17.00 PURPOSE

The region's primary industrial sectors are located in the City of Greenville where public water and sanitary sewers are readily available. Due to the Township's proximity to Greenville, combined with the lack of municipal infrastructure comparable to the City and a general lack of demand for industrial development within the Township, Eureka Township has a limited geographic extent of feasible industrial land uses.

The Township's Industrial District provides an opportunity for a limited range of general industrial uses, the majority of which are not dependent on public water and sanitary sewer services. Further, it is the intent of the Industrial District to encourage the concentration of compatible industrial uses in park-type settings, such as the industrial area delineated around the Greenville Airport. Industrial uses having a high potential to create offensive and loud noises, glare, heavy truck traffic, or environmental or other such impacts shall be highly regulated or, if determined to be excessively offensive, prohibited.

SECTION 17.01 PERMITTED USES

The following uses are permitted by right:

A. Accessory Buildings and Uses

B. Automobile Service and Repair Facility, Minor

C. Indoor Recreation Facility

D. Manufacturing, Processing, and/or Assembly, Small

E. Professional Office

F. Professional Service Establishment

G. Research, Development, and Testing

H. Retail Establishment, Minor

I. Small Wind Energy System (SWES)

J. Warehouse

SECTION 17.02 SPECIAL LAND USES

The following uses are permitted with special land use approval:

A. Adult Uses

B. Airport

C. Automobile Service and Repair Facility, Major

D. Building Materials Sales and Storage

E. Contractor's Establishment

F. Mining Operations

G. Junkyard

H. Large Wind Energy System (LWES).

I. Machine Shop

J. Manufacturing, Processing, and/or Assembly, Large

K. Retail Establishment, Major

L. Sawmill

M. Truck/Freight Terminal

N. Television or Radio Station

O. Veterinary Office

P. Wireless Communication Facility

Q. Solar Energy Systems, pursuant to Chapter 27

SECTION 17.03 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements, which shall be met and maintained in connection with any building or structure, or the enlargement of any building or structure:

Table 17.1. Industrial District Regulations

Dimensional Standard	IND District
Minimum Lot Area	2 acres
Minimum Lot Width	200 feet
Minimum Front Yard Setback	50 feet
Minimum Side Yard Setback (per side)	20 feet
Minimum Rear Yard Setback	20 feet
Maximum Building Height	50 feet
Maximum Lot Coverage	50%
Lot Depth to Width Ratio	4:1

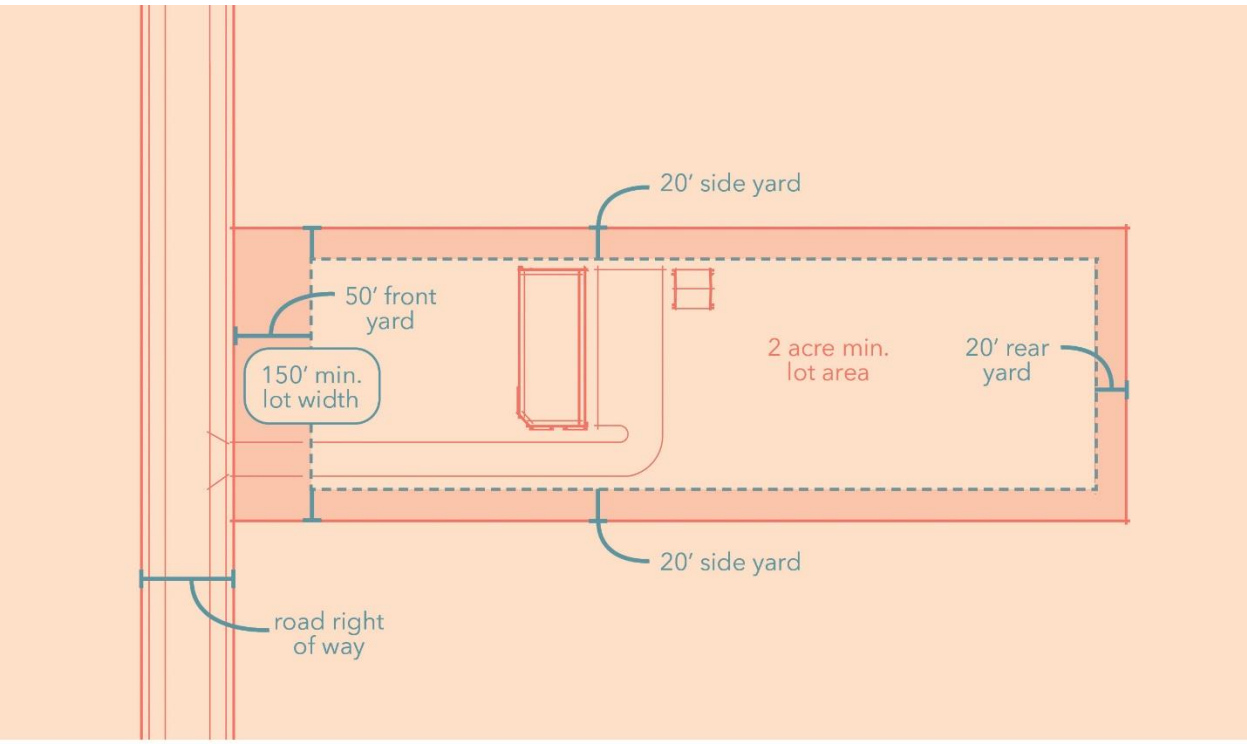


FIGURE 17.1 IND DISTRICT REGULATIONS

Chapter 18, Planned Unit Development (PUD)

SECTION 18.00 DESCRIPTION AND PURPOSE

A. The use, area, height, bulk, and placement regulations of this Ordinance are primarily applicable to the usual situation of one principal building on a lot. In certain situations, these requirements might result in a less desirable situation than if a controlled degree of flexibility were allowed. The Planned Unit Development (PUD) is intended to permit such flexibility in the development of planned areas for various compatible uses allowed by the Zoning Ordinance.

B. It is intended that the PUD shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, either within or adjacent to the PUD.

C. The provisions of this Chapter are not intended as a device to ignore or circumvent the Zoning Ordinance or land use planning on which it has been based. Rather, provisions in this Section are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Chapter.

SECTION 18.01 OBJECTIVES AND QUALIFYING CONDITIONS

A. The following objectives shall be met by an application for a PUD:

1. To provide desirable living, shopping, and working environments by preserving as much of the natural character of the property as possible including, but not limited to, open space, prime farmland, stands of trees, scenic vistas, water features, wetlands, floodplains, hills, and similar assets.
2. To encourage the provision of usable open space and recreational, commercial, and other support facilities within a reasonable distance of all living units.
3. To encourage a more creative and imaginative development design.
4. To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the Planning Commission.
5. To promote flexibility in design and location of structures and uses.
6. To promote the efficient use of land to facilitate a more economic arrangement of buildings, vehicular and pedestrian circulations systems, land use, and utilities.
7. To combine and coordinate architectural styles, building forms, and building relationships within the PUD.
8. To provide opportunities for added development incentives in return for a site design that is consistent with the goals and policies of the Eureka Charter Township Master Plan.

B. Qualifying Conditions

1. An applicant desiring PUD shall demonstrate that the PUD will result in a recognizable and

substantial benefit to the ultimate users and occupants of the project and to the community as a whole, where such benefit would otherwise be unfeasible or unlikely under conventional zoning. Such benefit may include, but not be limited to, the preservation of important natural features and open lands, the provision of a complimentary mix of land uses, and/or innovation in project design.

2. The tract of land for which a PUD application is received must be either in one ownership or the subject of an application filed jointly by the owners of all affected properties.
3. The property which is the subject of a PUD application must be a minimum of 10 contiguous acres in total area. The Planning Commission may permit a PUD on lesser area, but not less than 5 acres, if the proposed PUD substantially furthers the intent of the Objectives and Qualifying Conditions in Section 18.00 and 18.01.
4. A PUD shall result in a development that is substantially consistent with the goals and objectives of the Township's Master Plan.
5. To be considered as a PUD, the proposed development must fulfill at least one of the following conditions:
    a. The PUD contains two or more separate and distinct uses, for example, single-family and multiple-family dwellings;
    b. The PUD site exhibits significant natural features encompassing at least 25% of the land area of the PUD which will be preserved as a result of the PUD plan;
    c. The PUD is designed to preserve in perpetuity at least 35% of the total area of the site in open space.
    d. The PUD site exhibits significant natural features (e.g. wetlands, surface water bodies, steep topography, and other such natural features) over a majority of the site rendering compliance with the strict requirements of this Ordinance impractical.

SECTION 18.02 APPLICATION PROCEDURES

A. Application. An application for a PUD shall be submitted and acted upon in accordance with the procedures of Chapter 19, Special Land Use, except that Township Board approval shall be required as outlined in subsections C - E below. All applications for a PUD shall include the information required by Section 19.02(B) of this Ordinance, and the following additional information:

1. A table or description of all deviations which may be requested from the applicable Ordinance regulations.
2. A written narrative that describes how the Purpose and Intent, Qualifying Conditions, and Standards of Approval of this Chapter are or will be met.

B. Review and Approval. In reviewing a PUD application, the Planning Commission shall consider:

1. The application for a PUD;

2. Comments received at the public hearing;
3. The site plan;
4. Other materials submitted in relation to the application;
5. The requirements of this Chapter; and
6. The criteria for approval stated in Section 18.03.

C. After the public hearing and consideration of the above factors, the Planning Commission shall recommend that the Township Board deny, approve, or approve the PUD application with conditions. The Planning Commission's decision shall state the basis for said recommendation and any conditions relating to an affirmative decision.

D. Following receipt of the Planning Commission's recommendation, the Township Board shall hold a public hearing on the proposed PUD. Notice of the public hearing shall be provided pursuant to Section 29.03 of this Ordinance. Following the public hearing, the Township Board shall deny, approve, or approve with conditions the proposed PUD. The Township Board's decision shall be written and contain findings of fact relative to the basis for the decision and any conditions of approval (if approved).

E. The Township Board may impose conditions with the approval of a PUD that are necessary to ensure compliance with the standards of approval stated in this Chapter and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the PUD approval and subject to enforcement by the Zoning Administrator.

F. Either concurrently with the PUD application, or upon approval by the Planning Commission (with or without conditions), the applicant may apply for preliminary plat approval, condominium approval, and private road approval, as applicable.

SECTION 18.03 BASIS OF DETERMINATION

In order to approve a PUD the Planning Commission and Township Board shall find that all of the following standards are met:

1. The proposed PUD complies with the Intent and Purpose and all Qualifying Conditions of Sections 18.01 and 18.02 of this Chapter, respectively.
2. The uses conducted within the proposed PUD, the PUD's impact on the community, and other aspects of the PUD are consistent with, and further implement the policies of, the adopted Eureka Charter Township Master Plan.
3. The proposed PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property, the surrounding uses of land, the natural environment, and the capacity of public services and facilities affected by the development.
4. The proposed PUD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.

5. The proposed PUD shall not place demands on public services and facilities more than current or anticipated future capacity.
6. The proposed PUD shall satisfy all applicable local, state, and federal statutes and regulations.

SECTION 18.04 PERMITTED USES AND LARGE PARCEL PUDS

A. The following uses may be permitted, either individually or in combination, in accordance with the applicable PUD requirements:

1. Agricultural (AG) District:
   a. Single-family detached dwellings – limited to the equivalent of the number of lots permitted in compliance with the Land Division Act, PA 591 of 1996, amended by PA 87 of 1997, and lot standards of this Ordinance.
   b. Public or private golf courses (minimum 18-hole course of regulation size).
2. Rural Residential, Suburban Residential, and Manufactured Housing Residential Districts:
   a. Single-family detached dwellings.
   b. Public parks and playgrounds.
   c. Public and private schools.
   d. Public or private golf courses (minimum 18-hole course of regulation size).
3. Urban Residential District:
   a. Single-family detached dwellings (minimum 18,000 square feet of lot area per unit).
   b. Two-family dwellings (minimum 36,000 square feet of lot area per two-family dwelling).
   c. Multiple-family dwellings (maximum four units per acre).
   d. Public parks and playgrounds.
   e. Commercial uses that are clearly accessory and compatible with a proposed residential PUD and that form an integral part of the PUD, subject to the following:
      1) The area devoted to commercial buildings and parking lots used for commercial purposes shall not exceed 25% of the total site area.
      2) Unless otherwise permitted by the Planning Commission, the commercial aspects of the project shall not begin until at least 40% of the proposed residential units are constructed.
4. Commercial Districts:
   a. Any use permitted by the underlying Zoning District.
   b. Multiple family dwellings that are designed as an integral part of the project, including mixed use buildings, subject to the following:
      1) The area devoted to residential buildings and residential parking lots shall not exceed 50%

of the total site area.

2) Unless otherwise permitted by the Planning Commission, the residential aspects of the project shall not begin until at least 40% of the proposed commercial uses are constructed.

3) Residential density shall not exceed four units per acre.

5. Industrial District: Any use permitted by the underlying Zoning District.

B. Large Parcel PUD

1. Size, Location, and Uses. A PUD possessing not less than 100 acres shall be permitted in any Zoning District and may be permitted to combine any of the uses permitted in the Agricultural, Rural Residential, Suburban Residential, or Urban Residential districts. Uses of the Commercial District may also be included, provided said uses shall not exceed 25% of the total site area.

2. Design Standards. Unless otherwise provided in Section 18.06, a large parcel PUD shall meet the following design standards:

a. Residential Uses – Dimensional standards shall meet the residential standards of the UR District (Section 6.2).

b. Commercial Uses – Dimensional standards shall meet commercial standards of the OSC-2 District.

SECTION 18.05 GENERAL DESIGN STANDARDS

A. Net Developed Area. The total amount of land to be used for the calculation of the permitted density shall be the net developable area. Said area shall be determined by taking the total site area and subtracting lands used or dedicated for public easements and public or private road right-of-way. Additionally, 50% of that portion of the site area classified as regulated wetland or floodplain, and 50% of that portion of the site area devoted to an existing surface water body (e.g. lake, river, stream, etc.) shall also be subtracted from the total site area when calculating net developed area.

B. Setbacks. Unless otherwise stipulated by Section 18.06, the minimum setback for all lots or parcels shall comply with the underlying Zoning District.

C. Maintenance of Natural Vegetation. PUDs shall be developed so as to preserve as much open space and natural vegetation as is practicable. If the site is void of such vegetation, all open space and non-developed areas shall be landscaped as approved by the Planning Commission. The PUD application shall include a long-term maintenance plan detailing how open space and other non-developed areas will be maintained.

D. Site and Building Design. The site and buildings shall be designed and constructed in a harmonious, integrated manner with similar or compatible architectural and site development elements.

E. Residential Density. Unless otherwise stipulated by Section 18.06, the residential density shall not exceed that of the underlying Zoning District.

F. Utilities. All electric, television cable, telephone transmission wires, or other utility lines within the PUD shall be placed underground.

G. Signs. Signs shall meet the standards of the underlying Zoning District.

H. Service Drives. As required by the Planning Commission, service drives shall be constructed to permit the internal flow of traffic from one site to an adjoining site, as opposed to use of the adjoining public road for purposes of cross-site access. In the event that adjoining sites are undeveloped, the applicant shall provide a service drive easement within which a future service drive may be constructed.

I. Shared Drive. Provisions for shared driveways by individual units may be made as appropriate to minimize removal of vegetation or alteration of existing slopes.

SECTION 18.06 DEVELOPMENT AND DENSITY INCENTIVES

To encourage the establishment of projects highly consistent with Sections 18.1 and 18.2, the PUD regulations offer opportunity for certain development and density incentives. The incentives requested by an applicant must be fully detailed and described as part of the PUD application.

Provision shall be made, by restrictive covenant, master deed or other appropriate legal means, so that areas of the PUD designated as open space and considered in determining overall density of the project shall remain as such in perpetuity. Areas counted as open space for one development shall not be counted as open space for a different development.

Development and density incentives are subject to approval by the Planning Commission. In approving development and density incentives, the applicant must demonstrate to the satisfaction of the Planning Commission that all requisites for receipt of such incentives have been met.

A. Site Density or Development Intensity. The overall density or development intensity of a PUD shall not exceed that which would be permitted in the underlying zoning district at the time of the PUD application. The overall density or development intensity shall be determined through a parallel plan. The applicant shall prepare, and present to the Township for review, a parallel plan in accordance with the following requirements:

1. The parallel plan shall indicate the maximum residential density in terms of dwelling units per acre or the maximum square footage of non-residential construction, which meet all standards for lot width and setbacks as normally required by the underlying zoning district;

2. The parallel plan shall exclude areas subject to easements, restrictions, and existing dwellings;

3. The parallel plan shall contain an area which conceptually would provide sufficient area for stormwater detention;

4. The parallel plan shall be consistent with state, county, and Township requirements and design criteria.

The Planning Commission shall review the design and determine the number of dwellings or building square footage that could be feasibly constructed within the underlying zoning district in accordance with the parallel plan and that would constitute a plan that the Township would normally approve

without the open space option. This number of units or square footage, as determined by the Planning Commission, shall be the maximum number of dwelling units or square footage allowed in the PUD. The regulatory flexibility may be allowed to cluster dwellings on smaller lots or mix compatible uses, provided the overall density or intensity does not exceed that determined in the parallel plan, unless a density bonus is provided below.

B. Residential Density Bonus. In order to preserve the maximum amount of open space, the regulation of PUDs provides for an increase in the total number of dwelling units according to the following schedule.

1. A PUD providing at least 40% of open space shall be entitled to an additional 15% of the number of dwelling units otherwise permitted in this Chapter.
2. A PUD providing between 41% and 60% of open space shall be entitled to an additional 20% of the number of dwelling units otherwise permitted in this Chapter.
3. A PUD providing more than 60% of open space shall be entitled to an additional 25% of the number of dwelling units otherwise permitted in this Chapter.

   In approving an increase in density, the Planning Commission may permit a decrease in the lot area requirements (lot size, lot width, and setbacks) of the respective dwelling units from those normally required by the underlying Zoning District or this Chapter.

C. Off-Street Parking Reduction and Joint Use of Parking

1. The Planning Commission may permit a reduction in off-street parking not to exceed 25% of the parking normally required for the proposed use.
2. To help satisfy parking requirements, the Planning Commission may permit the joint use (sharing) of parking lots among contiguous, commercially-developed parcels, provided the applicant demonstrates that the said shared parking arrangement will satisfy the parking needs of all users during normal periods. To authorize the joint use of parking lots, the applicant must provide documentation of a binding agreement among applicable parties specifying the right to share parking and a workable maintenance agreement.

D. Joint Use of Drainage Facilities. Subject to the approval of the Montcalm County Drain Commissioner, the Planning Commission may permit the joint use of surface water drainage detention and retention facilities (e.g. sharing of such facilities on an area-wide basis).

SECTION 18.07 PROJECT PHASING

A. Where a project is proposed for construction in phases, the project shall be designed so that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure the protection of natural resources and the health, safety, and welfare of the users of the PUD and residents of the Township. Each phase of a PUD project requires the submittal of a site plan and review under Chapter 4 of this Ordinance, the requirements of this chapter, and other applicable Township Ordinances.

B. Prior to the construction of future phases, the applicant shall provide a site plan to the Zoning Administrator for purposes of determining that all conditions of the phase to be constructed, as originally approved, will be met.

SECTION 18.08 PERFORMANCE GUARANTEES

In approving a PUD, the Planning Commission or Township Board may require a performance guarantee as authorized by Section 29.06 this Ordinance.

SECTION 18.09 PUD AMENDMENTS

Amendments to an approved PUD may be permitted under the following circumstances:

A. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.

B. 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 PUD, nor any specified conditions imposed as part of the original approval. Minor changes may include the following:

1. Reduction of the size of any building or sign;
2. Movement of buildings or signs by no more than 10 feet;
3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
4. Changes in floor plans, of up to 5% of the total floor area, which do not alter the character of the use or increase the amount of required parking;
5. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design;
6. Changes required or requested by the Township, the county, or other state or federal regulatory agency in order to conform to other laws or regulations;
7. Change of phases or sequence of phases, only if all phases of the PUD have received final approval.
8. Other changes determined by the Zoning Administrator to be minor changes.

C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the final development plan and shall be processed in the same manner as the original PUD application.

SECTION 18.10 COMMENCEMENT OF CONSTRUCTION

A. For each approved PUD, construction of at least the first phase shall be commenced and shall proceed meaningfully toward completion within one year from the date of the approval of the final development plan by the Planning Commission.

B. The owner or applicant of the PUD may apply to the Planning Commission for one extension of the

original approval for an additional term not to exceed one year. In considering such authorization, the Planning Commission shall consider the following:

1. Whether the PUD has encountered unforeseen difficulties beyond the reasonable control of the owner/applicant.
2. Whether the PUD has a likelihood of now proceeding.

C. If the PUD has not commenced and proceeded meaningfully towards completion at the end of the initial one-year time period, or the one permitted extension thereof, then the PUD approval shall be null and void.

Chapter 19, Special Land Uses

SECTION 19.00 INTENT

This Chapter provides a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards in this Chapter are designed to allow reasonable use of lands for applicants while maintaining adequate protection of the health, safety, convenience, and general welfare of Eureka Charter Township. For purposes of this Ordinance, all Special Land Uses within each Zoning District are subject to the conditions and standards of this Chapter.

SECTION 19.01 APPLICATION PROCEDURES

The application for a Special Land Use shall be submitted and processed under the following procedures:

A. Application. An application shall be submitted to the Zoning Administrator not less than 21 days prior to the next scheduled Planning Commission meeting. The Zoning Administrator shall review the application for completeness, and when complete, transmit it to the Planning Commission.

B. Required Information. An application for a special land use shall be accompanied by the following documents and information:

   1. An application form that has been completed in full by the applicant.
   2. The payment of an application fee as established by the Township Board.
   3. A site plan as specified in Chapter 4, Site Plan Review.
   4. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed special land use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to, traffic impact analysis, environmental impact assessments, or reports and/or testimony by officials representing state, county, or local departments of public safety (police and fire), health, highways or roads, and/or environment.

C. Public Hearing Required. Upon receipt of the materials required in Section 19.2 (B), the Planning Commission shall hold a public hearing on the application, providing notice of such hearing in accordance with the Zoning Act.

D. Planning Commission Review. The Planning Commission shall review the application for special land use, comments received at the public hearing, the site plan, and any other materials submitted in relation to the application. The Planning Commission shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision into the meeting minutes. In arriving at its decision, the Planning Commission shall refer to and be guided by those standards set forth in this Chapter and any other standards in this Ordinance applicable to the proposed special land use.

E. Issuance of a Special Land Use Permit. A special land use permit shall be issued by the Zoning Administrator upon approval of the special land use by the Planning Commission. Reasonable

conditions may be attached to a special land use approval. The Special Land Use Permit shall list all the conditions of approval stipulated by the Planning Commission. The Zoning Administrator shall forward a copy of the special land use permit to the applicant and the Township Clerk.

F. Performance Guarantee. In authorizing a Special Land Use Permit, the Planning Commission may require a performance guarantee pursuant to Section 29.06.

G. Appeals. No decision or condition related to the special land use application shall be taken to the Zoning Board of Appeals.

H. Amendments. Amendments to special land use permit shall be handled in the same manner as the initial special land use application. Minor non-substantive changes to a site plan may be made to an existing special land use permit with the approval of the Zoning Administrator.

I. Transfers. The special land use permit, with any and all associated benefits, conditions, and required security may be transferred to a new owner upon the sale or transfer of the property in question. The original owner, upon transferring the special land use permit, shall advise the Zoning Administrator of said transfer in order to insure the continued validity of the permit and compliance with the terms and conditions of the approved permit.

J. Re-Submission. No petition for Special Land Use approval that has been disapproved shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the Zoning Administrator after learning of new and significant facts or conditions that may result in favorable action upon resubmission.

K. Construction. A Special Land Use approved pursuant to this Chapter shall either be under substantial construction, or operation begun within one year after the date of final approval of the Special Land Use by the Zoning Administrator.

L. Expiration. A special land use permit shall run with the land and shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The special land use permit will expire on the occurrence of one or more of the following conditions:

1. If replaced or superseded by a subsequent permitted use or special land use.
2. If the applicant or current owner of the property requests the rescinding of the special land use permit.
3. If the special use is considered abandoned pursuant to Section 19.01 (M).
4. If a building permit has not been obtained or if on-site development has not commenced substantially within one year of approval of the special land use.

M. Upon written request by the applicant stating the reasons therefore, the Planning Commission may extend a special land use approval for an additional one year period if the evidence shows that all of the following conditions exist:

1. The conditions necessitating the delay in the construction and completion of the project are reasonably beyond the control of the applicant.

2. The requirements and standards, including those of the zoning ordinance that are reasonably related to the development, have not changed.
3. Development or redevelopment in the proximity to the approved site plan has not resulted in changed conditions impacting the site.
4. There has not been a change in state or federal law, local charter, or other local ordinance prohibiting the construction or further construction of the approved project.

N. An application for an extension of a site plan must be filed at least 60 days prior to the expiration of the original site plan or the expiration of any extension previously approved by the Township, whichever is applicable.

O. Abandonment. Any approved special land use shall be considered abandoned, and such use shall not be resumed thereafter, if any of the following conditions apply:

1. The owner declares or otherwise makes evident his/her intent to discontinue such use.
2. When the use has been replaced by a different use.
3. The cessation of the permitted special land use for a period of 12 consecutive months or more.

P. Violations and Revocation. Any violation of the terms, conditions, or limitations of a special land use permit or this Ordinance shall be cause for revocation or suspension of the permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any special land use permit after giving notice to the permit holder, specifying the alleged violation(s) and holding a public hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the special land use permit exists. The permit holder shall be given a reasonable opportunity to correct the violation(s).

SECTION 19.02 SPECIAL LAND USE REVIEW STANDARDS

The following standards, in addition to specific standards for special land uses contained in Section 19.03, shall be satisfied before the Planning Commission makes a decision on a Special Land Use application:

A. Each application shall be reviewed for the purpose of determining that the proposed special land use meets the specific standards of Section 19.03 and, in addition, that the special land use will also meet the following standards:

1. The special land use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
2. The special land use will not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, lighting, noise, smoke, fumes, glare, or odors.
3. The special land use will be consistent with the intent and purposes of the Eureka Charter Township Master Plan.

4. The special land use will not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
5. The special land use will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, stormwater drainage, refuse disposal, water, and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
6. The special land use will ensure that the environment shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications that result in maximum harmony with adjacent areas.
7. The special land use is reasonable.

B. The Planning Commission may attached such additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with such conditions may result in the revocation of the Special Land Use approval, pursuant to Section 19.01(N). Conditions imposed shall be those necessary to:

1. Meet the intent and purpose of the Zoning Ordinance;
2. Relate to the standards established in the Ordinance for the land use or activity under consideration with the subject application;
3. Ensure compliance with those standards;
4. Protect the general welfare;
5. Protect individual property rights; and
6. Ensure that the intent and objectives of this Ordinance will be observed.

SECTION 19.03 SPECIFIC STANDARDS FOR SPECIAL LAND USES

The specific and detailed standards of this Section are requirements that must be met by those uses within the zoning district(s) where the use is allowed in addition to the foregoing general standards and requirements. Those uses specified in this Ordinance as Special Land Uses shall be subject to the requirements of the District in which the use is located in addition to all applicable conditions, standards, and regulations as are cited in the following:

SECTION 19.03.01 ACCESSORY DWELLING UNIT (ADU)

A. ADUs shall be attached to the principal residence and shall be a maximum of 400 sq. ft. with a minimum five-foot common wall and 36” clear span door having a 1 ½ hour Fire rating between the principal residence and the ADU, which shall include the attic.

B. The ADU shall be temporary in nature and a relative or legal designated dependent shall be identified as being cared for in this living unit. Once the relative or dependent is no longer residing in the unit it shall be returned to the living space of the principal dwelling.

C. The ADU shall meet all setback standards for the principal residence.

D. The ADU shall appear as part of the principal residence with the same building style and appear as part of the principal residence.

E. Annually, the owner of the principal residence shall sign an affidavit stating which relative or legal dependent is currently residing within the ADU. If no one is residing in the ADU, the unit shall be returned to the living space of the principal dwelling.

F. The ADU shall not be used as a second residence other than as listed above, and under no circumstances shall the unit be rented on a long-term or short-term basis in a manner inconsistent with this section.

G. Prior to issuance of a Special Use Permit, the owner of the principal residence shall receive approval for any additional water or sewer additions from the Mid-Michigan Health Department, and if the system needs to be expanded, a permit shall be obtained from the Department prior to issuance of the Special Use Permit.

SECTION 19.03.02 ADULT USES

A. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operations characteristics, particularly when several such uses are concentrated in certain areas, or when located in proximity to a Residential District, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The controls of this subsection are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential or other neighborhood. These controls do not legitimize activities which are prohibited in other sections of the Zoning Ordinance.

B. Adult uses facilities may be permitted only in the IND Industrial district:

   1. The facility shall not be located within 1,500 feet of any property zoned RR, SR, UR, or MHR.

   2. For massage parlors, all persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a school of massage therapy that is certified by the State of Michigan or have other similar qualifications which must be submitted to and approved by the Planning Commission. All massage clinics are subject to inspection from time to time by the Zoning Administrator and shall be required to file reports as may be required by the Township Board, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.

   3. An annual Zoning Permit renewal and corresponding zoning inspection is required.

C. Establishments shall not be expanded in any manner without first applying for and receiving the approval of the Planning Commission as provided herein.

D. Any sign or signs proposed for an adult use business must comply with the requirements of this Ordinance's sign regulations, shall not include photographs, silhouettes, drawings, or pictorial

representations of any type, nor include any animated illumination or flashing illumination.

E. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering and exiting the business, and using lettering which is at least two inches in height, stating that:

   1. "Persons under the age of 18 years are not permitted to enter the premises."
   2. "No alcoholic beverages of any type are permitted on the premises unless specifically allowed pursuant to a license issued by the Michigan Liquor Control Commission."

F. No product for sale, rent, or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.

G. No adult use shall be open for business prior to 9:00 a.m. or after 11:00 p.m., however, employees or other agents, or contractors of the business, are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, clean-up, preparation, record-keeping, and similar purposes.

SECTION 19.03.03 RESERVED

SECTION 19.03.04 ADULT FOSTER CARE LARGE GROUP HOME

A. An adult foster care home shall at all times maintain all valid state and local licenses.

B. An adult foster care home serving 13 but not more than 20 residents shall not be located within 1,500 feet of any other adult foster care home.

SECTION 19.03.05 ADULT FOSTER CARE CONGREGATE FACILITY

A. An adult foster care home shall at all times maintain all valid state and local licenses.

B. An adult foster care congregate facility serving more than 20 residents shall not be located within 1,500 feet of any other adult foster care congregate facility.

SECTION 19.03.06 AIRPORT

A. A site plan submitted in conjunction with the special land use for an airport shall illustrate areas where aircraft operations occur such as a terminal, hangers, aircraft parking areas, runways, taxiways, flight school or club, flight viewing area, fueling areas, aircraft maintenance, administrative, charter, customs or other similar aircraft use areas.

B. Apron, runway, taxiway, and tie-down clearance specifications established by the federal Aviation Administration shall apply.

C. A minimum setback of 50 feet shall apply from any buildings to the boundary of the airport property.

D. Drives and service roads to commercial and industrial buildings must be paved.

E. All utilities shall be placed underground.

SECTION 19.03.07 RESERVED

SECTION 19.03.08 ANIMAL GROOMING SERVICE

A. All portions of the unit must be equipped with a central air-conditioning and ventilation system which shall be maintained in a proper operating condition so that windows and doors may remain closed year-round without producing an adverse interior environment.

B. When such uses are located in a building occupied by other uses and to which access is gained through a common entry, access to the grooming facility must be from a separate entry, which shall give direct access from the street or sidewalk.

C. All rooms in which animals are to be contained for more than 30 minutes without receiving consistent attention from a handler must be equipped with sufficient sound-proofing materials to ensure that noise does not carry to adjacent businesses or residences.

D. Pets shall not be kept overnight.

SECTION 19.03.09 ASSISTED LIVING FACILITY

A. The use shall be established and maintained in accordance with any and all applicable local, state, and federal laws.

B. Parking shall comply with the parking requirement for each specific use on the site, however, parking requirements may be reduced if the planning commission finds that such requirements may be modified due to varying hours of operation or other factors or as provided in Section 20.09, Adjustment of Standards.

C. Notwithstanding Table 9.1, Suburban Residential District Regulations, all dwellings shall consist of at least 450 square feet of floor area per dwelling unit.

D. The number of efficiency dwelling units may exceed 15 percent of the total number of dwelling units, provided the total number of dwelling units shall not exceed 18 dwelling units per net usable acre of land.

E. The owner shall file with the Township a covenant acceptable to the Township Attorney on behalf of him/herself, his/her heirs, personal representatives, successors, and assigns, stating that occupancy of the development shall be limited to persons 55 years of age or older. The covenant shall be executed and recorded with the county register of deeds, prior to the issuance of a building permit.

F. The Planning Commission may, at a public hearing held in accordance with the public hearing requirements set forth in this ordinance, permit assisted living facilities to exceed the maximum building height limitations of the district, provided the building(s) shall be set back from all property lines one foot for each foot the structure exceeds the maximum building height limitation of the district. In no case shall building(s) exceed seven (7) stories or 75 feet in height, whichever is the lesser.

SECTION 19.03.10 AUTOMOBILE GASOLINE STATION

A. Curb cuts for ingress and egress to an automobile gasoline station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto.

B. The Planning Commission may establish hours of operation for automobile gasoline stations to protect the character of the land uses in the vicinity.

C. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by state and federal statutory and regulatory authority.

D. All buildings, pump islands, canopies, and other facilities shall be located in conformance with the yard and setback requirements of the zoning district in which it is located.

E. Dismantled, wrecked, or immobile vehicles stored shall not be permitted to be stored on the site.

F. No vehicles shall be parked on-site for the purpose of selling or renting such vehicles.

G. Any hazardous materials proposed to be stored, used, or handled on-site shall be disclosed by the applicant and all such storage, use, and handling shall be conducted in accordance with any applicable state or federal requirements.

SECTION 19.03.11 AUTOMOBILE SERVICE AND REPAIR FACILITY, MAJOR

A. The storage of automobiles awaiting repair, equipment, and similar items shall be in a side or rear yard and shall be screened from view around the entire periphery by a sight-obscuring wall or fence not less than six feet in height meeting the screening requirements of this Ordinance.

B. The area upon which vehicles and related materials are stored, including the main and accessory buildings, shall be located not closer than 500 feet to any public building, church, hospital, park, daycare center, or school, nor closer than 100 feet to any Residential district or use.

C. All batteries, chemicals, and other toxic or hazardous substances shall be removed from vehicles. All hazardous materials must be stored or disposed of in accordance with applicable state or federal regulations.

D. All work on vehicles must be conducted inside the building.

SECTION 19.03.12 AUTOMOBILE WASH

A. All washing activities shall be carried out within a building, however drying, waxing, vacuuming, and similar activities associated with manual and coin-operated automobile washes may occur outdoors.

B. No vacuum equipment shall be located closer than 100 feet from any property line which abuts a property zoned or used for residential purposes.

C. Noise generated on-site from any source shall not exceed 60 decibels measured at any property line.

D. Adequate drainage shall be provided to prevent flooding, freezing of runoff, and environmental damage.

E. Manual and coin automobile washes shall provide adequate space for drying and waxing vehicles.

F. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle waiting or stacking areas for the facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking, or pedestrian areas on site.

G. The applicant shall demonstrate that no litter and debris will travel off-site.

H. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.

SECTION 19.03.13 RESERVED

SECTION 19.03.14 BED AND BREAKFAST INN

A. Such uses shall only be established in a detached single-family dwelling and shall not alter the residential character of the building or structure.

B. The operator of the bed and breakfast inn shall occupy the dwelling as his/her principal residence.

C. There shall not be more than seven (7) total guest rooms.

D. Meals may be served only to the operator's family, employees, and overnight guests.

E. Any accessory use(s) must comply with the zoning district in which the property is located.

F. Guest stays shall not exceed 14 consecutive days nor more than 30 days in one year.

G. The establishment shall have at least two exits to the outdoors.

H. Rooms used for sleeping shall have a minimum area of one hundred 100 square feet for two occupants, plus an additional 30 square feet for each additional occupant. Rooms shall be designed to accommodate no more than four occupants.

I. Each sleeping room shall be equipped with a smoke detector.

SECTION 19.03.15 BUILDING MATERIALS SALES AND STORAGE

A. There shall be at least a 50-foot setback between the operating area of any building materials storage area and all property lines.

B. When within 200 feet of any Residential District or use, said operations shall be screened and/or buffered by plantings, hedges, and/or fences so as not to be visible from off the premises.

C. Operations of the yard shall not cause undue noise, traffic, odors, or lighting glare that are detrimental to the character of the surrounding area.

D. All lots where materials and products are stored shall be constructed to all-weather standards (i.e., gravel base and gravel or paved surface).

SECTION 19.03.16 RESERVED

SECTION 19.03.17 CAMPGROUND

A. The application shall include a clear definition of the sponsoring agency or organization, if applicable,

including names of owners/operators and/or officers of the camp. Any affiliation with regional or national organizations shall be disclosed.

B. The applicant shall provide a detailed description of the proposed camping program to be carried out at the facility. Such description shall include the times of the year when the camp is proposed to be occupied, the nature of any instruction or educational program that may be provided, the numbers, ages, and gender of campers to be accommodated, the ratio of camp staff to campers, and other information which the township determines is necessary to provide a complete presentation of the proposed facility.

C. Campsites shall not be located within 100 feet of any property line.

D. Minimum lot area shall be ten (10) acres.

E. Retail commercial uses may be permitted within the campground provided that the following requirements are met:

   1. All commercial uses allowed shall occupy no more than 2,000 square feet.

   2. No merchandise for display, sale, or lease shall be located in any manner outside the main building, except for those specific items approved by the Planning Commission.

   3. All commercial uses shall be set back 200 feet from any property line.

F. Each campsite shall have a minimum area of 1,500 square feet.

G. A common area shall be provided at the ratio of 1,000 square feet for each campsite.

H. Driveways and parking areas shall be at least 50 feet from any adjacent property line.

I. The applicant shall provide a detailed plan for refuse disposal, restrooms, potable water, and similar facilities.

J. The applicant shall secure all necessary permits from Township, county, state, and federal authorities.

SECTION 19.03.18 CHILD CARE CENTER

A. Facilities shall be located with direct access to a public road.

B. A facility shall not operate between the hours of 10:00 p.m. and 6:00 a.m. unless the main building and any play area are separated from any residence by more than 300 feet.

C. Playground equipment shall not be located in a front or side yard. All outdoor play areas shall be enclosed with fencing, a minimum of four feet high or as required by the State of Michigan.

D. An off-street drop-off area is to be provided with the capability to accommodate at least four (4) vehicles in addition to the parking normally required for employees.

E. Activities associated with childcare shall not be permitted in any accessory building, structure, or attached or detached garage other than the main building.

F. There shall be provided on the site a useable outdoor area at the rate of at least 66 square feet for each child, or as required by the State of Michigan.

G. The applicant shall provide the Township with copies of all licenses required by the State of Michigan Department of Licensing and Regulatory Affairs or other applicable agency(ies).

SECTION 19.03.19 CLUB OR LODGE

A. The site shall be a minimum of two (2) acres.

B. All vehicular ingress and egress to the site shall be directly from a public thoroughfare, unless otherwise approved by the Planning Commission.

C. Access to the site shall be located according to county and/or state requirements as applicable.

D. Where the site abuts a Residential District, a buffer zone shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer zone in accordance with Chapter 22 of this Ordinance.

E. The facility shall be located and designed such that no objectionable noise shall be carried to adjoining properties.

SECTION 19.03.20 RESERVED

SECTION 19.03.21 CONTRACTOR'S ESTABLISHMENT

A. The area of a site proposed for use as a contractor's establishment shall not be less than one (1) acre in size.

B. The site shall be fenced on both sides and rear with chain link or similarly durable fencing not less than six (6) feet nor more than eight (8) feet in height.

C. No building materials, scrap, or equipment shall be stored outdoors in any configuration higher than the surrounding fencing or screening.

D. Outdoor storage yards shall be designed and operated in a manner that minimizes dust, noise, glare, fumes, and similar impacts from adversely affecting neighboring properties.

SECTION 19.03.22 CONVALESCENT OR NURSING HOME

A. Minimum lot size shall be three (3) acres.

B. The main and accessory buildings shall be set back at least 75 feet from all property lines.

C. The facility shall be designed to provide a minimum of 500 square feet of open space for every bed used or intended to be used. This open space shall include landscaping but may not include off-street parking, driveways, required yard setbacks, and accessory use areas.

SECTION 19.03.23 DWELLING, MULTIPLE-FAMILY

A. No dwelling unit shall have its principal access more than 150 feet from either an access drive or a public street, and the required off-street parking area.

B. Multiple family dwellings shall be located on a parcel of at least one (1) acre.

C. Scaled elevation drawings depicting architectural features shall be provided. In an area of predominately single-family homes, a multi-family dwelling shall be designed to look like a one-unit dwelling and shall include architectural details found on the majority of dwellings in the neighborhood, so that the multi-family dwelling is consistent with the aesthetic character of existing buildings.

D. Dwelling unit density for multiple-family dwellings shall not exceed four (4) units per acre.

SECTION 19.03.24 EATING AND DRINKING ESTABLISHMENT

A. Such facilities shall maintain, at all times, all required state and local licenses and permits.

B. Such facilities shall be located and designed such that no objectionable noise in excess of 60 decibels and no objectionable vibration shall be carried onto adjoining property zoned for, or occupied by, residential uses.

C. Such facilities shall be located and designed such that no objectionable odor or fumes shall be carried onto property located in residential districts or residential uses.

D. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust, or debris from the facility.

E. The Planning Commission may establish reasonable hours of operation for eating and drinking establishments.

SECTION 19.03.25 EDUCATIONAL FACILITY

A. Public access to the site shall be located as far as practicable feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

B. Athletic fields shall not be located closer than 200 feet from any property line abutting a Residential District or use.

C. An education facility shall have its primary access directly from a paved, all-season road.

D. All outdoor play areas shall be enclosed with a durable fence six feet in height.

E. All required state and local licenses, charters, permits, and similar approvals shall be issued prior to occupancy for any educational purposes.

F. Exterior light structures shall be no higher than 20 feet.

G. Off-street parking shall be arranged so the area for bus loading and unloading of students will not be in the path of vehicular traffic.

H. Sidewalks may be required connecting the off-street parking area to the main entrance of the school, and to the required sidewalk along the adjacent road right-of-way line.

I. The planning commission may establish standards to limit routine noise generated by an educational facility to no more than sixty (60) decibels at the property line, taking into account the nature of the facility, the surrounding uses and zoning, and the probable frequency of objectionable noise levels

that may be generated by the use.

J. An educational facility with a place of public assembly shall comply with the special land use standards for place of public assembly set forth in Section 19.03.51.

K. Public schools under the jurisdiction of the Michigan superintendent of public instruction are not subject to the requirements of this Ordinance, in accordance with the Revised School Code, MCL 380.1263(3).

SECTION 19.03.26 EVENT VENUES

A. **Application Materials.** In addition to a site plan as required by Chapter 4 ("Site Plan Review") of the zoning ordinance, an application for an event venue shall include the following:

1. A narrative describing the plan for the operation of the business, including types of events, catering, alcohol service, proposed days and hours of operation, supervision by responsible parties, and other information necessary or useful to demonstrate compliance with the intent and purposes of this special land use and the requirements imposed herein.

2. A written report by a qualified engineer, architect, or builder stating at least a preliminary conclusion that the building proposed is in, or can be brought into, compliance with all applicable building, electrical, mechanical, and structural requirements applicable to a place of public assembly.

3. Confirmation from the Road Commission for Montcalm County that a commercial driveway permit can be issued to provide access to the venue and parking area.

B. **Regulations and Conditions for Event Venues in the AG District.** In addition to the general requirements for special land use approval, the following specific requirements apply to an event venue located in the AG district:

1. Existing Building. The building proposed as the event venue shall be a barn that was originally been constructed for farming or agricultural purposes. This does not prevent remodeling or reinforcement of an existing building, or the construction of accessory buildings in support of the main venue, as permitted herein.

2. Minimum Parcel Size. The event venue shall be located on a parcel of no less than ten (10) acres. The Planning Commission may modify the minimum acreage requirement for a particular use upon a finding that the use is compatible with adjacent or nearby properties and may be conducted in compliance with the other standards in the ordinance on less than 10 acres. The size and capacity of the buildings, parking area, and sanitation facilities shall be capable of safely handling the events on the property.

3. Operation by Occupants. The person who operates the event venue shall have a primary residence on the property. This is not intended to prevent the use of caterers or others to perform functions under the supervision of the operator of the business. The Planning Commission may modify this requirement in cases where it determines that the applicant/operator lives in the vicinity and the applicant establishes that the property will be closely monitored during all events,

in a manner substantially the equivalent as oversight by a person living on the property. To assure continued compliance with this provision, notification of all transfers of property associated with an event venue special land use shall be given to the Township zoning administrator 30 days prior to any such land transfer.

4. Timing of Events. All events shall be completed by 12:00 a.m., and guests shall vacate the premises by that time. Any cleanup activity shall be completed no later than 48 hours after an event. Alcohol service shall be concluded not later than 11:00 p.m. The Planning Commission may impose more restrictive days and hours of operation, if appropriate, to protect neighboring properties or land use.

5. Attendees. The maximum number of attendees shall be not more than 200, or such lesser number specified by the Planning Commission, subject to the further limitation of the maximum capacity of the buildings as permitted by the Michigan Building Code and available parking. The Planning Commission may also impose supplemental restrictions, such as a limit prohibiting more than one event with an attendance greater than a specified number of persons in any weekend, or limiting the number of events in a weekend.

6. Amplified Music. Any speakers for amplified music or announcements shall be permitted only inside a fully enclosed building or structure. Amplified music may not be played later than 11:00 p.m. and shall comply with all Township noise ordinance requirements. In no event shall music, amplified or not, be reasonably detectable off the property after 11:00 p.m.

7. Parking. Any sawhorses, cones, or other devices used to mark parking areas and direct traffic will be installed no more than 48 hours before an event and removed no later than 48 hours after an event.

8. Parking Surface. Event venue parking areas may have a grass surface if maintained in a dust and mud-free condition. For more permanent parking, Chapter 12 ("Parking and Loading") of the zoning ordinance shall control, except that the Planning Commission may grant a parking modification with respect to the amount of parking area required to be paved, and allow (or require) parking on gravel, crushed concrete, grass, and similar areas, upon finding that paved parking would result in unnecessary amounts of paved parking area for the particular needs of the proposed use and that adequate parking for the business on non-paved areas as clearly designated on the site plan, is safe, and is compatible with adjacent or nearby properties. Dust and mud conditions shall, in all events, be controlled and avoided.

9. Lighting. Small lantern lights not over eight feet above ground may be used to supplement existing lights. Additional exterior lighting shall only be in compliance with the zoning ordinance and shall require the approval of the Township zoning administrator. No lighting shall shine onto adjacent properties. Supplemental exterior lighting shall only be used during scheduled events.

10. Trash and Refuse. All trash and refuse resulting from events will be removed by the event sponsor or caterer no later than 48 hours after an event.

11. Responsible Party. The property owner shall maintain responsibility for operations at the site. The applicant shall designate to the Township a responsible party, with cellular and other phone contact, who is one of the owners or residents of the property, as a contact in case there are problems during the course of an event. The contact person shall at all times be available on the property during an event or shall designate to the Township the person who shall be at the site, available by phone and responsible (in addition to the named property owner) during an event. As a condition of special land use approval, the property owner shall be responsible for compliance with the conditions of this special land use approval, regardless of whether violations are actually committed by employees, contractors, guests, or others.

C. **Regulations and Conditions for All Event Venues.** In addition to the general requirements for special land use approval, the following specific requirements apply to all event venues:

1. Parking. Off-street parking shall be provided as shown on the site plan submitted with the special land use application. The minimum number of spaces shall be as provided in Chapter 12 ("Parking and Loading") of the zoning ordinance for places of assembly without fixed seats.

2. The Planning Commission may impose a maximum number of permitted vehicles, and shall require appropriate screening, fencing, or other landscaping, and shall prohibit the parking of vehicles within a specified distance from the right-of-way line of adjacent streets and provide other regulations to assure that vehicles are arranged in a safe manner, consistent with neighboring lands and uses.

3. No parking whatsoever shall occur on public roads, even if permitted by Road Commission regulations, and violation of this requirement shall constitute grounds for revocation of the special use permit.

4. Temporary Structures. Any tent or other temporary structure which is constructed in addition to the existing buildings and structures, so as to accommodate an event, may be installed and shall be dismantled and removed by the end of the season.

5. Signage. One permanent sign shall be permitted in the same manner as allowed for permitted non-residential uses in the district. Temporary signage providing additional information may be placed not more than 48 hours prior to the scheduled event.

6. Toilets and Lavatory Facilities. Toilets and lavatory facilities shall be provided in accordance with the Michigan Building Code and applicable health department regulations, including handicap accessibility when required, but in no event shall less than two separate toilets and lavatory facilities be provided. The applicant may use portable facilities which, if used, shall be located as shown on the site plan.

7. Setback Requirements. All buildings and structures on the site shall conform to the minimum setback requirements of the district in which it is located, unless the Planning Commission imposes a greater setback requirement. An existing legal non-conforming building and structure shall not be used for the business if such building or structure does not meet the current minimum setback requirements.

8. Traffic Control and Security. If necessary, to ensure that traffic entering or exiting the property moves promptly and safely into and out of the parking area, personnel shall be supplied by the property owner to direct traffic. Also, security personnel shall be provided by the property owner to the extent necessary to ensure good order and safety are maintained during all events.

9. Auxiliary Structures. It is the intention of this section that significant additional buildings generally not be constructed to support the event venue. Auxiliary structures connected with the event venue, such as gazebos, pavilions, and restroom facilities, may be constructed as shown on the site plan. Auxiliary structures constructed to support the event venue shall not exceed a total area of 1,200 square feet.

10. Noise. An event venue business, and all uses, events, programs, or activities connected with the business, shall not create, assist in creating, continue, or permit the continuation of any excessive or unnecessarily loud disturbances.

11. Compliance with Laws and Regulations; Permits and Insurance. All required federal, state, county, and local permits for each use, event, program or activity, shall be secured and maintained by the applicant, including but not limited to the following:

    a. Buildings, including but not limited to barns, shall not be used in the business until documentation is provided to the Township from a certified architect or engineer that the building so used is structurally sound and safe for the proposed activity. In addition, all buildings used in the business shall be inspected by Township building and electrical inspectors for the proposed uses of the building for the business.

    b. Alcoholic beverages shall not be provided unless the provider secures and maintains an appropriate license from the Michigan Liquor Control Commission.

    c. Driveway permits from the Road Commission for Montcalm County are necessary for ingress and egress from the site.

    d. All buildings and structures shall be kept in compliance with applicable building and construction codes.

12. Additional Requirements. The Township planning commission may impose additional conditions and limitations upon the operation of the business concerning traffic, traffic patterns, parking arrangements, noises, and disturbances, and other operational aspects based on experience with the operation.

SECTION 19.03.27 RESERVED

SECTION 19.03.28 FUNERAL HOME

A. The minimum lot area shall be two (2) acres and the minimum lot width shall be 150 feet.

B. An off-street vehicle staging area shall be provided to accommodate funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.

C. No waiting lines of vehicles shall extend off-site or onto any public road.

D. Driveways and parking areas shall be at least 50 feet from any adjacent property line.

SECTION 19.03.29 GOLF COURSE

A. Golf courses shall be located on a lot at least 40 acres in area.

B. The main and accessory buildings shall be set back at least 75 feet from all property and right-of-way lines.

C. Retail sales and services only to guests and visitors may be permitted.

D. A 50-foot minimum natural vegetation strip between turf areas and natural water bodies, watercourses, or wetlands must be maintained. The natural vegetation strip shall not be chemically treated.

E. All parking areas and access drives shall be paved, provided the Planning Commission may permit a gravel surface in lieu of paving.

F. A golf driving range accessory to the principal use of the golf course is permitted, provided the area devoted to this use shall maintain a seventy 75-foot front yard and a 100-foot side and rear yard setback. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.

SECTION 19.03.30 GREENHOUSE

A. The storage or materials display areas shall meet all yard setback requirements applicable to any buildings in the District.

B. All loading activities and parking areas shall be provided on the same premises.

C. The storage of any soil, fertilizer, or similar loosely-packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

D. No display area shall be located within the required front yard.

E. Activity must be located not less than 200 feet from a Residential District or existing residential use.

F. The display or storage areas shall be provided with a permanent, durable, and dustless surface.

SECTION 19.03.31 GROUP DAY CARE HOME (ADULT OR CHILD)

A. An outdoor recreation area shall be provided at a ratio of 150 square feet for each client served and shall be enclosed with fencing having a minimum height of four feet.

B. Off-street parking shall be provided for family members and employees of the facility. Client pick-up and drop-off areas shall be located in such a manner that vehicles do not stop in the travel lane of the adjacent roadway and vehicles are not required to back into the roadway.

C. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.

D. The facility shall be in compliance with all applicable state licensing requirements.

E. Such facilities shall be located at least 1,500 feet from any one of the following:

1. A licensed or pre-existing operating group or commercial day-care home.
2. An adult foster care facility.
3. A facility offering substance abuse treatment and rehabilitation service to seven or more people.
4. A community correction center resident home, halfway house, or similar facility under jurisdiction of the County Sheriff or the Department of Corrections.

F. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 p.m. and 6:00 a.m.

G. The Planning Commission shall approve group day care home special land use applications if the application satisfies the requirements specified in MCL 125.3206(4).

SECTION 19.03.32 RESERVED

SECTION 19.03.33 HOSPITAL

A. The minimum lot area shall be 10 acres and the minimum lot width shall be 200 feet.

B. At least one property line shall abut Class A road as designated by the Road Commission for Montcalm County or the Michigan Department of Transportation. The primary ingress and egress for off-street parking facilities for guests, patients, employees, and staff shall be directly from said road.

C. All main and accessory buildings shall be set back at least 100 feet from any property line.

D. Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses by a structure or sight- obscuring wall or fence of six feet or more in height. Access to and from the ambulance and delivery areas shall be directly from an arterial or collector street, as designated by the Road Commission for Montcalm County or the Michigan Department of Transportation.

E. No power plant, laundry, or loading area shall be located nearer than 100 feet to any adjacent Residential District or use.

F. No more than 25% of the gross site area shall be occupied by buildings, excluding parking structures.

G. Any hazardous materials proposed to be stored, used, or handled on-site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance any applicable county, state, or federal requirements.

H. Helicopter landing pads may be permitted as accessory uses.

SECTION 10.03.34 RESERVED

SECTION 19.03.35 HOTEL/MOTEL

A. A hotel or motel that includes auditorium, exhibition, or public meeting space shall provide parking to accommodate all uses on the site and shall be further regulated pursuant to Section 19.03.51, places of public assembly.

B. A hotel/motel that includes an eating and drinking establishment shall be further regulated pursuant to Section 19.03.25.

C. The use and the impact of the establishment shall be compatible with other allowed uses in the vicinity in terms of parking, traffic, noise, and odors, and shall not adversely impact the area in which it is located.

D. Each unit shall contain not less than 250 square feet of floor area, and shall contain at least two rooms, including a bathroom.

E. Parking areas shall have a minimum front yard setback of 20 feet and side and rear yard setbacks of ten feet.

F. No guest shall establish permanent residence at a hotel.

SECTION 19.03.36 RESERVED

SECTION 19.03.37 JUNKYARD OR SALVAGE YARD

A. The minimum lot area shall be at least (10) acres.

B. The storage area shall be screened from view around the entire periphery by a sight-obscuring wall or fence not less than seven (7) feet in height and meeting the screening requirements of this Ordinance. Said wall or fence shall be of sound construction, painted, and otherwise finished neatly and inconspicuously.

C. The area upon which junk materials are stored, including the main and accessory buildings, shall be located not closer than 500 feet to any public building, church, hospital, park, day care center, or school, or closer than 100 feet to any Residential District or use.

D. All buildings shall be set back not less than 50 feet from any property line. Fenced areas shall not be located closer than 150 feet from any right-of-way line and 50 feet from any other property line. Such required setback areas shall be planted with trees, grass, and shrubs to minimize the appearance of the installation.

E. No storage shall be permitted outside the required fenced area and no materials shall be stacked higher than such fence.

F. All batteries, chemicals, and other toxic or hazardous substances shall be removed from vehicles and other junk materials and shall be stored or disposed of in accordance with applicable state or federal regulations.

G. All junkyards shall obtain all applicable federal, state, and local permits and licenses.

SECTION 19.03.38 KENNEL/ANIMAL DAY CARE

A. Kennels and animal day care uses, including outdoor play areas and runs, shall be set back at least 100 feet from all property lines and shall not occur in a front yard

B. The applicant shall submit evidence that noise shall be contained to the property. If it is documented that animals are barking for more than two (2) hours over five (5) or more separate days, the special use permit may be suspended or revoked pursuant to Section 19.01(N). Documented barking is where the County Sheriff or Zoning Administrator has witnessed continued barking.

C. Kennels shall have a permit issued by Montcalm County and be in good standing with the County Animal Control Department.

SECTION 19.03.39 LAUNDROMAT

A. The planning commission may impose hours of operation limitations to protect the character of surrounding uses.

B. The laundromat shall be maintained in a manner compatible with the surrounding neighborhood.

C. The applicant shall provide satisfactory evidence that all storage tanks or other facilities used to store hazardous, toxic, odorous, explosive, or flammable substances shall be equipped with appropriate containment structures or equipment; to prevent any migration of such substances into the groundwater or surface waters of the Township; and to prevent said substances from being perceptible outside such containment.

SECTION 19.03.40 RESERVED

SECTION 19.03.41 MACHINE SHOP

A. There shall be a minimum lot width of 200 feet.

B. Any main building shall be a minimum of 100 feet from a road/street right-of-way and a minimum of two hundred 200 feet from an adjacent residential district or use.

C. Any outside storage area shall not exceed 2,000 square feet in area and shall be screened from view on all sides by a fence or wall between six and eight feet in height or landscaped equivalent. The fence or wall shall be tall enough to screen the view of the contents of the storage area. The Planning Commission may require that certain items or equipment be stored inside if such outdoor storage would be incompatible with surrounding properties.

D. Any portion of a building containing the use shall not have loading doors, windows, or other similar openings facing an abutting Residential District or use. If openings are present, they shall remain closed at all times while any part of the business is in operation.

SECTION 19.03.42 MANUFACTURING, PROCESSING, AND/OR ASSEMBLY

A. The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity.

B. The applicant shall disclose any hazardous, flammable, or corrosive materials proposed to be stored,

used, or handled on the site. Use and handling shall be conducted in accordance with applicable local, state, and federal requirements.

C. Federal, state, and local agency requirements for storage, spill prevention, record keeping, emergency response, transport, and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate federal, state, and county permits and approvals.

D. Any storage facilities shall provide adequate security and signage to notify the public of any hazardous materials and to prevent trespass.

E. The Planning Commission may require buffering, screening, setbacks, and other elements, including those greater than otherwise required by this Ordinance, to protect the public health, safety, and welfare.

F. The applicant shall demonstrate and disclose the following:

1. Potential environmental impacts on air, surface water, ground water, soils, and natural features. The applicant shall provide evidence that these potential impacts shall be minimized or fully mitigated.

2. Potential impacts on the health of residents of the Township and surrounding communities and on plant and wildlife communities in the vicinity. The Planning Commission shall not approve the proposed manufacturing, compounding, or processing use if potential impacts are significant.

3. The potential chemical composition of all emissions to the air, groundwater, and surface waters shall be disclosed.

SECTION 19.03.43 MEDICAL OFFICE

A. Any disposal of bio-hazardous waste shall be in conformance with federal, state, and local requirements.

B. Where a parking area abuts a Residential District or use, the parking area must be screened using appropriate and effective screening methods as determined by the Planning Commission.

SECTION 19.03.44 MINING OPERATION

A. Mining operations shall be regulated by Eureka Charter Township Mining Ordinance (Ordinance #84), as amended.

B. In addition to the standards of Ordinance 84, the Planning Commission shall also consider whether or not the applicant has satisfied his/her burden in demonstrating the following pursuant to MCL 125.3205:

1. That there are valuable natural resources on the subject property,

2. That the applicant can extract such resources and reasonably expect to operate at a profit, and;

3. That no very serious consequences will result from extraction, after considering the following

standards:

a. The relationship of extraction and associated activities with existing land uses.

b. The impact on existing land uses in the vicinity of the property.

c. The impact on existing property values in the vicinity of the property and along the proposed haul routes, based on credible evidence.

d. The impact on pedestrian and traffic safety in the vicinity and along the proposed haul routes.

e. The impact on other identifiable health, safety, and welfare interests in the local unit of government.

f. The overall public interest in the extraction of the specific natural resources on the property.

SECTION 19.03.45 MINI-STORAGE FACILITY

A. The area of the proposed site shall be at least two (2) acres.

B. The use shall be established and maintained in accordance with all applicable local, state, and federal laws.

C. All outdoor storage areas shall be fenced and screened from view from adjoining roadways and residential properties and be provided with a smooth and dust-free surface.

D. All parking, maneuvering, and drive lane areas shall be provided with a paved surface and all drive aisles shall be sufficient to accommodate vehicular movements and the parking of vehicles for loading/unloading purposes.

E. Automatic night lighting and fully cut-off fixtures must be used.

SECTION 19.03.46 RESERVED

SECTION 19.03.47 OPEN AIR BUSINESS

A. The minimum lot size shall be one (1) acre.

B. Open air business areas shall provide adequate areas for vehicular and pedestrian movement, and shall provide for adequate emergency vehicle access.

C. The Planning Commission may require a six-foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.

D. Open air businesses shall comply with all applicable Mid-Michigan Health Department regulations regarding sanitation and general health conditions.

E. The lot area used for display or storage areas shall be provided with a permanent, durable, dustless surface and shall be graded and drained so as to dispose of all surface water.

SECTION 19.03.48 OUTDOOR RECREATION

A. The use shall be located on property with direct access to a public street.

B. Any outdoor activity areas shall be set back a minimum of 50 feet from any residential district or use. The Planning Commission may impose a greater setback and/or additional fencing, landscaping, berming, or screening to protect adjoining residential properties.

C. Any building shall comply with the yard setback requirements of the district in which it is located.

SECTION 19.03.49 OUTDOOR STORAGE FACILITY OR YARD

A. Sight-obscuring fencing must be installed outside the storage area.

B. No part of the fence shall extend toward a road beyond the front wall of the main building. The exterior of the fenced-in area shall be screened with grass and trees and/or shrubs to minimize the appearance of the installation.

C. Nothing being stored can be stacked higher than the fence or outside the fenced area unless specifically authorized by the Planning Commission.

D. Vehicles in storage must be able to be licensed and/or titled, including watercraft. Inoperable or junk vehicles may not be stored.

E. Items must be stored in an orderly fashion so the surrounding neighborhood shall not be negatively impacted.

SECTION 19.03.50 PERMITTED USES WITH DRIVE-THROUGH FACILITIES

A. All such uses shall have direct ingress and egress through a paved major thoroughfare with a right-hand turn lane in case of unforeseen stacking.

B. Each drive-through entrance/exit shall be at least 150' from an intersection of public rights-of-way and at least 150' from the curb cut on an adjacent property. Exceptions may be granted by the Planning Commission when drive-thru pull out spaces are provided, or part of a service drive/shared drive situation.

C. All automobile queuing for a drive-through window shall be separated from other onsite traffic patterns.

D. Pedestrian areas shall be clearly marked and delineated with colored distinguishing material.

E. Each entrance to an aisle and the direction of traffic flow shall be dearly designated by signs and pavement markings.

F. Each drive-through lane shall be separated from the circulation routes necessary for ingress or egress from the property, or access to a parking space.

G. The drive-through lane(s) shall be designed to accommodate a full-size passenger vehicle.

H. The applicant shall demonstrate to the satisfaction of the Township Planning Commission that vehicle stacking areas for the drive-through facility are sufficient to accommodate the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking, or pedestrian areas on site. A minimum of six vehicles stacking spaces per drive-through lane shall be provided. The Planning Commission may require additional stacking spaces for eating and drinking establishments

containing drive-through facilities based on the length of menu and other applicable factors.

I. Landscaping of the drive-through aisle shall be provided per the Planning Commission as seen fit for the site situation, especially to adjoining zoning districts. Waste containers must be in locations that do not cause distraction of the site.

J. In the event that safety issues arise, the Zoning Administrator may impose a non-use order until the matter is rectified.

K. Order waiting parking spots may be required by the Planning Commission depending on establishment menu.

L. Drive-through facilities shall also have an escape lane.

M. Significant changes to the nature of the establishments or may require the applicant to return to the Planning Commission for possible parking, stacking, or physical changes to the site.

N. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.

O. Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward adjacent property.

SECTION 19.03.51 PLACE OF PUBLIC ASSEMBLY

A. The Planning Commission may require the completion of a traffic impact study to ensure streets will be capable of accommodating traffic from the proposed use.

B. Outside activities shall not take place within 50 feet of any property line abutting a Residential District.

C. The Planning Commission may require an additional greenbelt or screening to minimize visual, noise, or other effects from the proposed use or parking area.

SECTION 19.03.52 RETAIL ESTABLISHMENT, MAJOR

A. Public access to the site shall be located as far as practicable from an adjacent intersection as measured from the nearest right-of-way line to the nearest edge of said access.

B. Any principal building shall have side and rear yard setbacks of at least 50 feet.

C. The Planning Commission may require landscaping in accordance with the landscaping requirements of this Ordinance, or a six-foot fence or wall along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.

D. No mechanical rooms or loading areas shall be located within 200 feet of any Residential District or use.

E. Any loading area facing a Residential District or use shall be screened by a major buffer, as defined by the landscaping requirements of this Ordinance. Loading areas shall not be located within any required yard and may not be located in the front yard.

F. Any lot on which such use is conducted shall have at least 300 feet of frontage on an arterial street as

designated by the Road Commission for Montcalm County or the Michigan Department of Transportation.

SECTION 19.03.53 SAWMILL

A. The Planning Commission may limit operating hours and set specific operating times as part of the approval process.

B. The use of a portable chipper, stud mill, or other similar processing equipment as well as any storage or accessory buildings located on the site shall be set back at least 100 feet from any road right of way or lot line. The Planning Commission may impose a greater setback in order to protect the public health, safety, and welfare.

C. Vehicle access to the site shall be located on a road suitable to accommodate both vehicular and truck traffic. Parking and loading areas shall be provided and shall be constructed of gravel or stone surface.

D. The maximum area of land permitted for raw material (log) storage, milling operations, and processed waste (sawdust and cuttings) storage shall not exceed five acres of contiguous land and shall be arranged so as not to constitute a fire hazard.

E. The Planning Commission may limit the frequency of loading, shipment, or delivery activities to limit nuisances created by this activity from impacting adjacent land uses.

F. All raw and processed material shall be stored in a neat and orderly manner. In addition, the property shall be kept free of junk, debris, garbage, and tall weeds and grasses. The outdoor storage of inoperable equipment, inoperable or unlicensed vehicles, and equipment or vehicle parts shall be strictly prohibited.

G. All waste from sawmill operations shall be disposed of in a manner that meets all local, state, and federal laws.

SECTION 19.03.54 RESERVED

SECTION 19.03.55 TATTOO PARLOR

A. The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity. Hours of operation shall be consistent with those of adjacent land uses.

B. Food or beverages shall not be served at the establishment.

C. The applicant shall demonstrate that outdoor loitering space would not be provided for and that outdoor loitering would be prohibited.

D. The use shall be compatible with other allowed uses in the vicinity. The impact of the establishment shall be no greater than of other uses allowed in the GC, General Commercial district.

E. A proposed tattoo and piercing parlor shall be located a minimum of 1,000 feet from an existing tattoo and piercing parlor or educational facility, as measured from to the lot line. The Planning Commission may waive this requirement if it finds that physical features significantly separate the uses so as to avoid concentration of tattoo and piercing parlors, and to avoid the establishment of a tattoo and

piercing parlor in proximity to an educational facility.

SECTION 19.03.56 TRUCK/FREIGHT TERMINAL

A. Access driveways shall be located no less than 200 feet from the centerline of the intersection of any street or any other driveway.

B. Trucks and trailers parked overnight shall be set back a minimum of 100 feet from the front lot line.

C. The principal and accessory buildings and structures shall not be located within 200 feet of any Residential District or use.

D. The lot area used for parking, display, or storage shall be provided with a permanent, durable, dustless surface and shall be graded and drained so as to dispose of all surface water.

E. Any vehicle or equipment stored outside of an enclosed building shall not extend into any required yard.

SECTION 19.03.57 TELEVISION OR RADIO STATION

A. The minimum lot size shall be two (2) acres.

B. Individual setbacks for any tower or other similar structure shall be at least one-half (½) the height of any such structure.

SECTION 19.03.58 RESERVED

SECTION 19.03.59 VETERINARY OFFICE

A. Animal wastes, biohazard materials, or byproducts shall be disposed of as required by the Mid Michigan Health Department, the Michigan Department of Public Health, or other duly appointed authority. All other wastes shall be contained in leak-proof and odor-proof containers removed not less frequently than twice per week. No animal wastes, biohazard materials, or byproducts shall be buried or incinerated on site. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special use approval for a veterinary clinic.

B. All operations and the housing or boarding of animals shall be contained in one or more completely enclosed buildings.

C. The application shall provide for measures acceptable to the planning commission to prevent any noise in excess of 60 decibels at any property line.

D. The boarding of animals may be permitted as an accessory use. Outdoor areas used in the conduct of the veterinary office or boarding services shall be set back at least 100 feet from all property lines and shall not occur in a front yard.

E. Kennels and animal day care uses, including outdoor play areas and runs, may also be permitted as an accessory use, shall be set back at least 100 feet from all property lines, and shall not occur in a front yard.

SECTION 19.03.60 WAREHOUSE

A. Additional landscaping may be required to help screen the building or any outdoor storage area.

B. Hazardous materials shall be disposed of, stored, and handled as required by the Mid Michigan Health Department, the Michigan Department of Public Health, or other duly appointed authority. No hazardous materials shall be buried or incinerated on site.

C. At least twenty (20%) percent of any elevation of a warehouse facility visible from a public road right-of-way shall be comprised of brick or another decorative material acceptable to the Planning Commission.

SECTION 19.03.61 WIRELESS COMMUNICATION FACILITY

A. Additional Information Required for Review. In addition to the requirements for site plans and special land uses, the following information shall be provided by the applicant when applying to construct a wireless communication antenna:

1. Name and address of the proposed operator of the site.
2. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
3. Preliminary design of all proposed structures, including elevations and renderings showing the proposed facility from four vantage points located not less than 200 feet nor more than 500 feet from the proposed tower location.
4. A registered engineer's certification of the design and safety of the proposed tower for West Michigan conditions. Such certification shall set forth the fall zone area for the proposed tower. If such fall zone area is less than that of a circle whose radius is equivalent to the height of the proposed tower, such certification shall provide structural calculations and detail sufficient to demonstrate the accuracy of such lesser fall zone area determination. Such certification shall be provided by an engineer licensed to practice in Michigan.
5. Method of fencing, finished color and, if applicable, the method of camouflage and illumination.
6. A notarized statement signed by the applicant indicating the number and type of additional antennae the proposed tower will accommodate through co-location.
7. Each applicant shall provide an inventory of existing towers, tall structures, antennas, or sites approved for towers or antennas that are either within the jurisdiction of the Eureka Charter Township, or within one mile of the border thereof, including specific information about the location, height, and design of each tower or tall structure. The Zoning Administrator may share such information with other applicants applying for approvals under this Ordinance or other organizations seeking to locate antennas within the Township, provided, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
8. The separation distance from other towers described in the inventory of existing sites shall be

shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known. The applicant shall also demonstrate the reasons such existing towers or tall structures cannot be used in lieu of the proposed communication tower.

9. Pursuant to MCL 125.3514, once all required materials are submitted, the Planning Commission shall review the application in accordance with the standards of Section 19.02 and shall either approve, approve with conditions, or deny the application within 90 days of receipt of all required information, as determined by the Zoning Administrator. If the Planning Commission does not approve, approve with conditions, or deny the application with 90 days, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

B. Siting Criteria.

1. Antennas for Commercial Wireless Telecommunication Services shall be required to co-locate on any existing or approved Commercial Wireless Telecommunication Services tower within a one-mile radius of the proposed tower unless one of more or the following conditions exists:

   a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and registered professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

   b. The planned equipment would cause interference materially affecting the usability of other existing or planned equipment at the tower or building as documented by a qualified and registered professional engineer and the interference cannot be prevented at a reasonable cost.

   c. Existing or approved towers and buildings within a one-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and registered professional engineer.

   d. Other unforeseen reasons that make it unfeasible to locate the planned equipment upon an existing tower or building.

2. The applicant's failure or refusal to allow any future applicant to co-locate its antenna on the applicant's tower consistent with these terms and conditions shall be a sufficient ground for the Township’s revocation of the special use permit granted to the applicant.

3. If the Planning Commission determines that co-location on an existing tower is impossible, the applicant may request permission to construct a new tower, provided that all requirements of the zoning district in which a tower would be located are met, including minimum lot size.

4. Any new tower shall be at least one-half mile from an existing tower.

C. General Standards. Construction of wireless communication antenna including its accessory equipment and/or structures is permitted in Eureka Charter Township as a special land use and is

subject to the following provisions:

1. Any proposed wireless communication tower shall be designed structurally, electrically, and in all other respects to accommodate both the applicant's equipment and comparable equipment for at least two additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at various heights.
2. Towers shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by other state or federal authorities.
3. Towers shall be of a monopole design unless the Planning Commission determines that an alternative design would better blend into the surrounding environment.
4. Any part of the structure or equipment placed on the ground pertaining to the tower shall be set back for a distance equal to the setbacks for main buildings for the District in which it is located, except that in no case shall such structure or equipment be located less than the following:
   a. 25 feet from any adjacent lot line or main building in any district; or
   b. 200 feet from any lot line of a Residential District or use.

   This provision shall not apply to towers located on existing buildings, towers, or other existing structures.
5. The Planning Commission may require such structures or equipment on the ground to be screened in accordance with the landscaping requirements of this Ordinance.
6. Towers shall not be illuminated unless required by other state or federal authorities.
7. No signs or other advertising not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings.
8. All proposed towers of more than thirty-five (35) feet in height shall be submitted to the Michigan Aeronautics Commission and FAA for review and approval prior to approval by Eureka Township. All wireless communication antenna must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers 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 towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
9. All connecting wires from towers to accessory buildings and all electrical and other service wires to the facility shall be underground.
10. The Planning Commission may require landscape screening of the service building and fencing.

11. Towers or antenna and their accessory equipment and buildings shall be enclosed by a locked gate and security fencing at least 6 feet in height, and shall be equipped with an appropriate anti-climbing device.

12. The applicant shall certify intent to lease excess space on the proposed tower for co-located antennae of other operators. Such certification shall include a commitment to respond to any requests for information from another potential shared use applicant; to negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable, and; to make no more than a reasonable charge for a shared use lease.

D. Abandonment. Wireless communication facilities that are abandoned or unused shall be removed, along with any associated structures or equipment, within 12 months of the cessation of operations unless a time extension is granted by the Zoning Administrator. Only one three-month extension shall be permitted and then only if the Zoning Administrator finds that the owner or former operator of the facility is taking active steps to ensure removal.

1. The owner or operator shall notify the Township if a wireless communication facility becomes non-operational or otherwise ceases operations.

2. The Zoning Administrator or Planning Commission may require a performance guarantee pursuant to Section 29.06 of this Ordinance for any wireless communication facility.

Chapter 20. Off Street Parking and Loading

SECTION 20.00 PURPOSE AND INTENT

The purpose of this Chapter is to ensure there is adequate area to provide parking for motor vehicles, temporary storage of vehicles, and loading and unloading space in Eureka Charter Township. Through the parking provisions in this Chapter, it is the intent of the Township to encourage safe vehicular circulation, efficient traffic flow on roadways, and safe interactions between vehicles and pedestrians. Additionally, this Chapter is intended to protect the rural character of the Township by limiting excessive parking, which can detract from the Township's natural setting and cause stormwater runoff issues.

SECTION 20.01 SCOPE

In all zoning districts, off-street parking facilities shall be provided for any new building, structure, or use; for any addition or enlargement to an existing building, structure, or use; or for any change of use to an existing structure, according to the standards of this Chapter. Off-street parking must meet the requirements of this Chapter prior to the issuance of a Certificate of Occupancy.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for all new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means as applicable, additional off-street parking shall be provided commensurate with such increase in intensity of use.

No person shall construct a parking facility or cause any land to be used for a parking facility, with the exception of parking facilities serving a single-family or two-family dwelling, unless a permit for such facility is issued by the Township. Applications for a permit shall be submitted to the Township and shall be accompanied by not less than three sets of site plans for the development and construction of the parking lot showing that the project will fully comply with all provisions of this Ordinance.

SECTION 20.02 GENERAL PROVISIONS

A. Before any building or structure is occupied, enlarged, or increased in capacity, parking shall be provided in accordance with the number of spaces required in Section 20.08. Where not specifically listed, the Zoning Administrator shall apply the parking requirements for similar uses or using technical publications from entities such as the Institute of Transportation Engineers or other similar objective standards.

B. The Zoning Administrator may require a performance guarantee prior to the issuance of the Certificate of Occupancy where full completion of a parking area would not be possible due to adverse weather conditions or similar reasonable circumstances beyond the control of the applicant.

C. Once an area is designated as required off-street parking, the parking spaces shall not be removed or changed to another use unless an equal number of parking spaces as required by this Chapter are provided elsewhere on the premises.

D. Restricted Occupancy. If fewer spaces are available to serve a use than the minimum requirement of this Chapter, the extent and occupancy of the use may be restricted proportionately to the number of parking spaces available.

E. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

F. Any building or use that fully or partially meets the off-street parking or loading requirements of this Ordinance, as amended, shall continue to comply with these requirements at the highest degree of compliance reached.

SECTION 20.03 SINGLE AND TWO-FAMILY RESIDENTIAL PARKING REQUIREMENTS

A. Required residential off-street parking spaces shall consist of a clearly-defined parking strip, parking bay, driveway, or combination thereof and shall be located on the premises they are intended to serve. Parking spaces provided within a carport or enclosed garage shall be counted toward meeting the minimum parking space requirement.

B. The amount of paving for the parking strip, parking bay, or driveway shall not cover more than 25 percent of the front yard area.

C. Off-street parking shall not be permitted in the required front yard except on a driveway that leads to an approved parking space.

SECTION 20.04 NON-RESIDENTIAL AND MULTIPLE-FAMILY RESIDENTIAL PARKING REQUIREMENTS

A. Parking facilities for non-residential and multiple-family residential uses shall be on the same premises as the building it is intended to serve or within 300 feet thereof as measured from the closest building entrance to the nearest portion of the lot.

B. Covered parking such as parking ramps, parking garages, and basement parking may serve as required parking areas.

C. Parking lot landscaping shall be provided in accordance with Chapter 22 of this Ordinance.

D. Parking lots shall be adequately lit to ensure security and safety and shall meet the following requirements:

1. Light fixtures shall be no higher than 20 feet and shall be provided with light cut-off fixtures that direct light downward.

2. For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of 500 spaces, the Planning Commission may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.

3. Lighting shall not be attached to buildings or other structures that permits light to be directed horizontally

4. Lighting at the property line shall not exceed one footcandle.

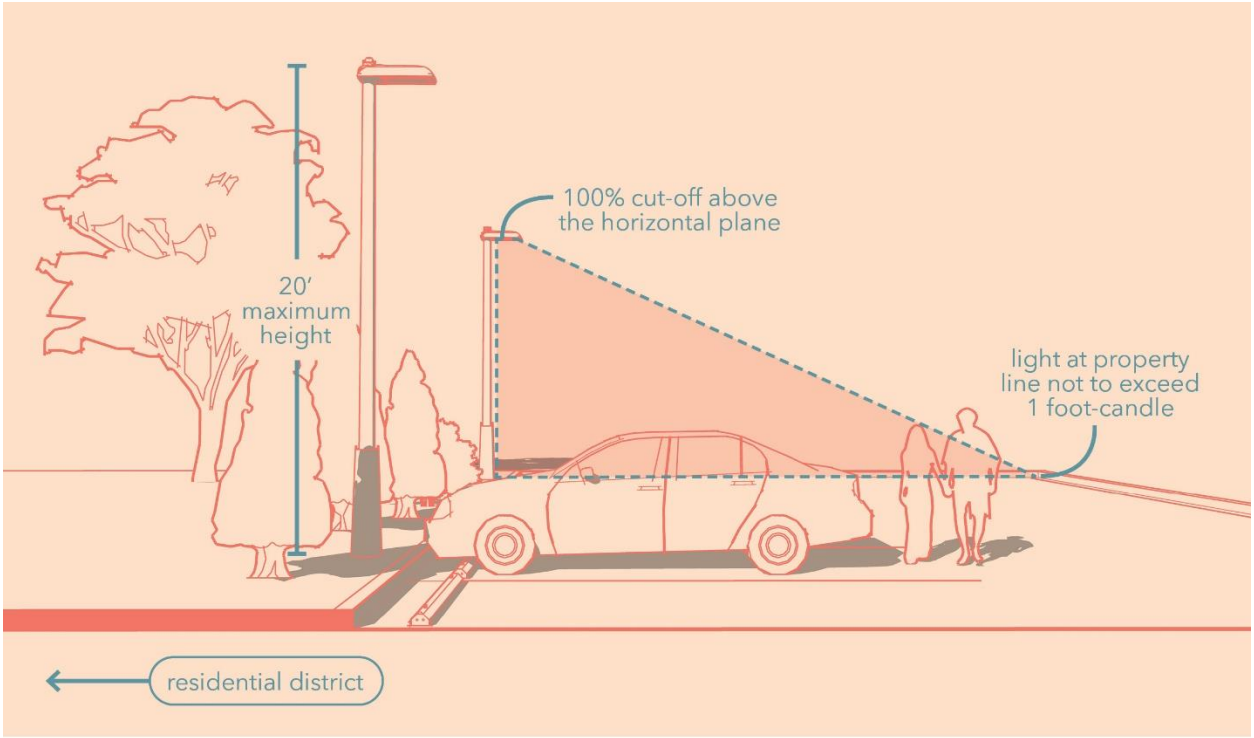


FIGURE 20.1 PARKING LOT LIGHTING

SECTION 20.05 RESERVED

SECTION 20.06 BARRIER-FREE PARKING

A. An off-street parking area that serves a building, except single and two-family dwelling units, shall include parking spaces reserved for physically handicapped persons that are barrier-free and designed in accordance with the provisions of Public Act 1 of 1966, as amended, (MCL 125.1351 *et seq.*) and the adopted Township Building Code.

B. Signs shall be located approximately six feet above grade and each reserved parking space shall not be less than 12 feet wide.

C. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or curb cut with a gradient of not more than one foot in 12 feet and a width of not less than four feet shall be provided for wheelchair access.

D. Barrier-free parking spaces shall be included in the count of required spaces and located as close as possible to walkways and building entrances.

E. Signs shall be provided when necessary indicating the direction to a barrier-free entranceway into a building.

F. The number of barrier-free parking spaces shall be determined in accordance with the following table and the required ADA guidelines for parking standards:

Table 20.1 Required Barrier-Free Parking Spaces	
Total Parking Spaces Provided	**Required Minimum Number of Barrier-Free Spaces**
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501-1,000	2% of total
More than 1,000	20, plus one for each additional 100 over 1,000

SECTION 20.07 CONSTRUCTION, LAYOUT, AND MAINTENANCE

A. All parking areas shall meet the minimum standards contained in the following Table 20.2, Parking Space Dimensions:

Table 20.2. Parking Space Dimensions.				
Parking Angle	**Maneuvering Aisle Width**		**Parking Space**	
	1 Way	**2 Way**	**Width**	**Length**
0 degrees (parallel)	12 feet	22 feet	8 feet	23 feet
30-53 degrees	12 feet	24 feet	9 feet	20 feet
54-74 degrees	15 feet	24 feet	9 feet	18 feet
75-90 degrees	15 feet	24 feet	9 feet	18 feet

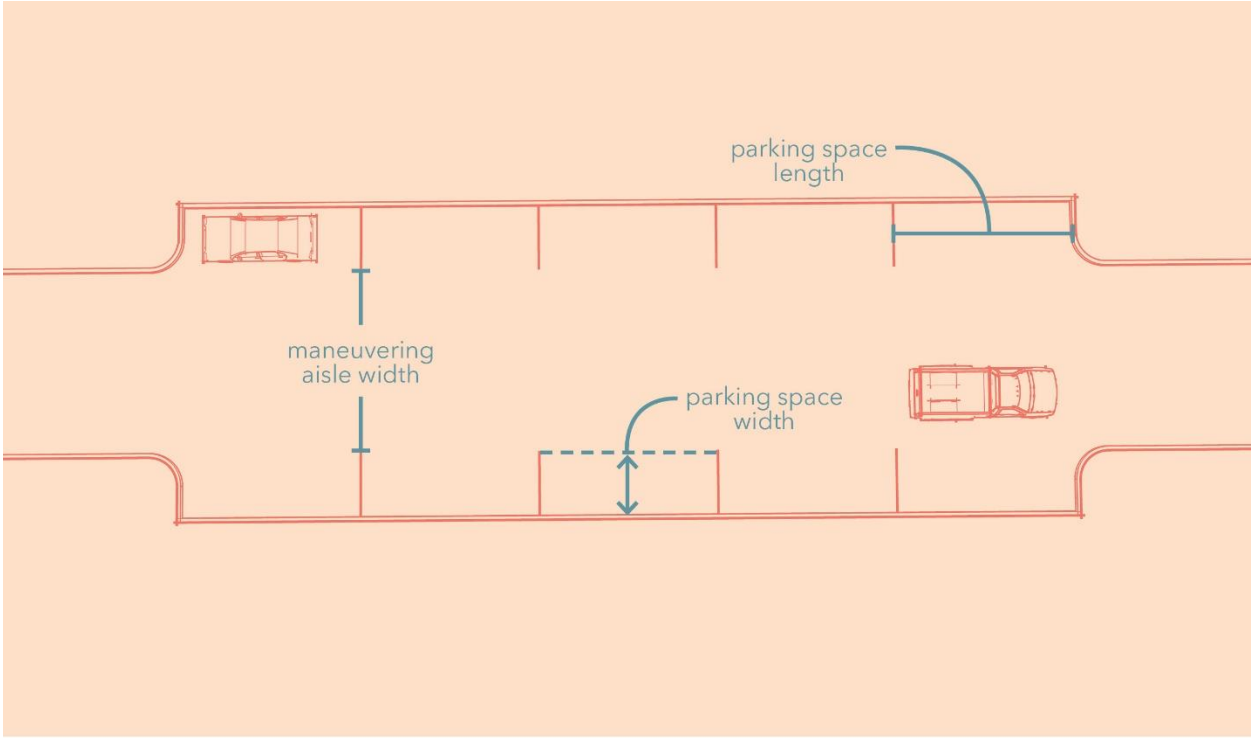


FIGURE 20.2 0° (PARALLEL) PARKING DIAGRAM

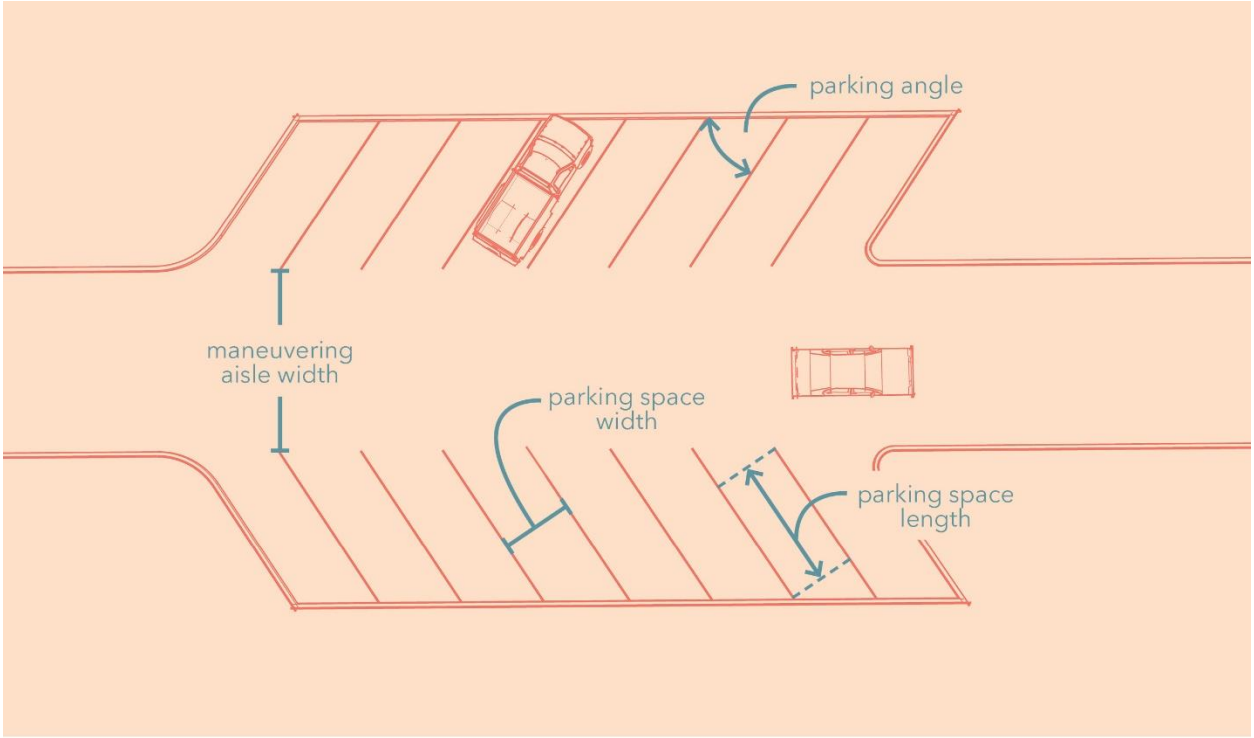


FIGURE 20.3 30° - 90° PARKING DIAGRAM

B. Off-street parking areas and loading areas shall be designed to provide adequate drainage to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings. Preference shall be given to drainage designs which include rain gardens, sunken landscape islands, or other forms of green infrastructure. No off-street parking or loading area drainage systems may be connected to a sanitary sewer system.

C. All driveways, maneuvering aisles, entrances, and parking and loading areas shall be improved with concrete, asphalt, brick pavers manufactured for use as a driving surface, or a similar alternative all-weather, dustless material approved by the Township. The Township reserves the right to require a specific paving material in the interest of protecting the integrity of any nearby natural water features, to avoid excessive water runoff, to establish a dustless parking surface, or protect the public safety, health, and welfare.

D. All parking spaces, except parking lots with fewer than four spaces, shall be delineated by single or double striping. A single stripe is required along the front of each space perpendicular to the side striping. No striping is required for spaces approved solely for automobile sales with dealer display areas.

E. Bumper stops, raised curbing, or wheel chocks shall be provided as necessary, or as required by the Township, and located so as to prevent any vehicle from projecting over the lot line.

F. Parking facilities shall not be used for the storage of goods, merchandise, unrelated commercial vehicles, or junk. The repair or sale of vehicles shall be prohibited in all parking areas, except for in the following circumstances:

1. Not more than one vehicle shall be offered for sale or be under repair at a time, and such sale or repair shall not occur for a period exceeding 30 days, and such vehicles shall be registered.
2. An approved business uses involved in the sale or repair of motor vehicles, recreational vehicles, and the like.

G. Multiple-Family Residential and Non-Residential Uses.

1. The exterior of all parking lots shall be provided with a rolled or standard six-inch concrete curb, except where the parking lot abuts a retention or detention pond or equivalent area.
2. All entrances and exits for off-street parking lots located in a non-residential district shall not cross properties in a residential district and shall have a minimum setback of 25 feet from the property line of any residential district or residential use.
3. Vehicle backing or maneuvering directly into a street, alley, or service drive intended for travel by the general public or patrons is prohibited. An adequate radius shall be provided to permit the turning or maneuvering of all vehicles, including trucks and emergency vehicles, intended to use the site such that any vehicle may enter the street facing forward.

H. All parking areas, driveways, maneuvering aisles, entrances and service roads to commercial properties shall be maintained by the property owner. Any surface damage including, but not limited to, potholes and large cracks must be repaired as soon as favorable weather conditions and the materials necessary for repair are available.

SECTION 20.08 OFF-STREET PARKING REQUIREMENTS

A. The number of required parking spaces on a site shall be determined based on the requirements below. The minimum requirements below may be adjusted per Section 20.09.

RESIDENTIAL USES	
Use	**Minimum Parking Requirement**
Accessory Dwelling Unit (ADU)	1 space per unit
Adult Foster Care Family Home	Applicant shall demonstrate parking demand
Adult Foster Care Small Group Home	Applicant shall demonstrate parking demand
Adult Foster Care Large Group Home	Applicant shall demonstrate parking demand
Bed and Breakfast Inn	2 spaces for principal dwelling use, plus 1 space per rental room
Dwelling, Multiple-Family	1.5 spaces per unit
Dwelling, Single- and Two-Family	2 spaces for each dwelling unit
Foster Day Care Home	Applicant shall demonstrate parking demand
Family Foster Care Home	Applicant shall demonstrate parking demand
Group Day Care Home	2 spaces for the principal dwelling use, plus 1 space per employee.

INSTITUTIONAL, RECREATIONAL, AND CULTURAL USES	
Use	**Minimum Parking Requirement**
Airport	Applicant shall demonstrate parking demand
Adult Foster Care Congregate Facility	Applicant shall demonstrate parking demand
Art Gallery	1 space per 600 square feet usable floor area

Assisted Living Center	1 space per each dwelling unit
Campground	2 spaces on each campsite, plus 1 space per 5 campsites
Cemetery, Crematorium, and/or Funeral Home	1 space per employee of largest shift, plus 1 space per 4 units of legal seating capacity in any facility for interment services
Child Care Center	1 space per employee, plus 1 space per 4 persons under care
Club or Lodge	1 space per 3 units of legal capacity
Convalescent or Nursing Home	1 space for each 3 beds
Educational Facility	1 space per employee of largest shift, plus 1 space per classroom, plus 1 space per 4 seats of legal seating capacity in a gymnasium or auditorium
Golf Course	60 spaces for each 9 holes, plus the amount required for accessory uses such as driving ranges, restaurants, etc.
Hospital	1 space per employee in largest shift, plus 1 space for each 3 beds dedicated to in-patient care and 1 space for each 1,000 square feet dedicated to out-patient services
Indoor Recreation Facility	Applicant shall demonstrate parking demand
Outdoor Recreation	Applicant shall demonstrate parking demand
Place of Public Assembly, Small or Large	1 space per 4 seats of legal capacity
Public and Quasi-Public Uses	Applicant shall demonstrate parking demand
Riding Stable	Applicant shall demonstrate parking demand

COMMERCIAL AND OFFICE USES	
Use	**Minimum Parking Requirement**
Adult Uses	1 space per 350 square feet of gross floor area
Animal Day Care Facility	Applicant shall demonstrate parking demand
Animal Grooming Service	Applicant shall demonstrate parking demand
Automobile Gasoline Station	1 space per 150 square feet dedicated to retail activity, plus 1 space at each fuel pump, plus 1 stacking space per fuel pump
Automobile Sales Facility	Applicant shall demonstrate parking demand
Automobile Service and Repair Facility, Minor or Major	1 space per employee of largest shift, plus 2 spaces per service bay
Automobile Wash	3 stacking spaces per bay, plus 1 space per 350 square feet of retail/office space, not including car wash bays
Bakery	1 space for each 200 square feet usable floor area
Building Materials Sales and Storage	1 space for each 800 square feet usable floor area, plus 1 space for each 2,000 square feet of outside land used for storage/display
Eating and Drinking Establishment	1 space per 3 units of legal capacity
Farm Market or Roadside Stand	Applicant shall demonstrate parking demand
Farms and Farm Operation	Applicant shall demonstrate parking demand
Financial Institution	1 space per 250 square feet of usable floor area
Government Building	1 space per 300 square feet of gross floor area, unless Planning Commission determines a lesser parking allotment will effectively serve the use
Greenhouse	Applicant shall demonstrate parking demand
Home Occupation, Minor or Major	Applicant shall demonstrate parking demand

Hotel/Motel	5 spaces, plus 1 space for each occupancy unit, plus additional spaces required for accessory uses
Junkyard or Salvage Yard	Applicant shall demonstrate parking demand
Kennel	Applicant shall demonstrate parking demand
Laundromat	1 space for each 2 washing and/or dry-cleaning machines
Medical Office	1 space for each employee of largest shift, plus 1 space per 200 square feet gross floor area
Mining	Applicant shall demonstrate parking demand
Mini-Storage Facility	1.5 spaces per 100 storage units
Open Air Business	1 space per 200 square feet of usable floor area, plus 1 space for each 2,000 square feet of outdoor display area
Outdoor Storage Facility or Yard	Applicant shall demonstrate parking demand
Personal Service Establishment	1 space per 350 square feet usable floor area
Professional Office	1 space per 300 square feet of gross floor area
Professional Service Establishment	1 space per 450 square feet of gross floor area
Retail Establishment, Minor or Major	1 space for each 150 square feet usable floor area up to 10,000 sq ft, plus 1 space for each 200 square feet of remaining usable floor area
Small Equipment Rental and Repair	Applicant shall demonstrate parking demand
Tattoo Parlor	1 space per 350 square feet usable floor area
Veterinary Office	1 space per 300 square feet gross floor area
Wind Energy System, Large or Small	Applicant shall demonstrate parking demand
INDUSTRIAL USES	
Use	**Minimum Parking Requirement**

Contractor's Establishment	1 space per employee of largest shift, plus 1 space per 350 square feet of retail/office space
Machine Shop	Applicant shall demonstrate parking demand
Manufacturing, Processing, and/or Assembly	1 space per employee of largest shift, plus 1 space per 2,000 square feet of gross floor area
Research, Development, and Testing	5 spaces, plus 1 space for every 1,500 square feet gross floor area.
Sawmill	Applicant shall demonstrate parking demand
Truck/Freight Terminal	1 space for each 1,000 square feet usable floor area, plus 2 spaces for each vehicle operating from the premises.
Warehouse	1 space per employee, plus 5 visitor spaces

SECTION 20.09 ADJUSTMENT OF STANDARDS

A. Upon request by an applicant, the Planning Commission may increase or decrease the requirements of Section 20.08 by up to 25% of the required minimum number of spaces. The applicant shall submit, in writing, justification for the proposed adjustment. Modifications shall not result in inadequate parking area; large, unwarranted amounts of unused parking space; or a reduction in critical open space or natural features. In addition, in approving any request to modify the parking standards, the Planning Commission must find that the proposed quantity of parking spaces would preserve the rural character of the Township, be consistent with Section 20.00, and protect the public health, safety, and welfare.

B. Deferred Parking. Where the property owner or applicant can demonstrate that the required number of parking spaces is excessive, the Planning Commission may defer construction of a portion of the required number of parking spaces until some future date if the following conditions are met:

   1. Areas shown for deferred parking shall be shown on a site plan and shall be of sufficient area to permit the construction of the total number of parking spaces required by this Section.

   2. Such areas shall only be used as open landscaped space until parking is constructed.

   3. Alterations to the deferred parking area to add parking spaces may be initiated by the owner or required by the Zoning Administrator based on parking needs and shall require the submission and approval of an amended site plan as required in Chapter 4.

C. Shared Parking. Joint or collective provision of off-street parking for mixed uses in the same building or buildings or uses on two (2) or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately. However, for buildings or uses where the

peak parking demand does not overlap, the Zoning Administrator or Planning Commission may authorize a reduction of up to 50% in the collective number of off-street parking spaces required by Section 20.08.

SECTION 20.10 OFF-STREET TRUCK AND EQUIPMENT PARKING

A. Unless otherwise permitted by this Ordinance, the storage or parking of more than one truck, semi-tractors and/or tractor trailer, manufactured home, bulldozer, earth carrier, drag line, crane, steam shovel and/or any other heavy equipment or machinery in any residential district is prohibited.

B. Equipment necessary to be parked on a lot or parcel during construction shall be exempt from this restriction. This restriction shall not apply to pickup or panel trucks.

C. In accordance with the Right to Farm Act (Act 93 of 1981), truck, tractor, and other related farm equipment parking in Agricultural and Rural Residential districts shall not be subject to the standards of this Section if in compliance with generally accepted agricultural and management practices (GAAMPs).

SECTION 20.11 OFF-STREET LOADING AND UNLOADING

A. On the same premises with every building, structure, or part thereof erected and occupied for manufacturing, storage, warehousing, retailing, display, or other uses involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services adjacent to the opening used for loading and unloading. Loading and unloading space shall be provided according to the following Table 20.3:

Table 20.3 Required Loading/Unloading Spaces

Gross Floor Area (sq. ft.)	Loading/Unloading Spaces Required
0 – 2,000	None
2,000 – 20,000	One space
20,000 – 100,000	One space plus one space for each 20,000 square feet in excess of 20,000 or one space for every overhead loading door, whichever is greater
100,000 – 500,000	Five spaces plus one space for each 40,000 square feet in excess of 100,000 or one space for every overhead loading door, whichever is greater

B. <u>General Loading/Unloading requirements</u>

1. Loading/unloading spaces shall not use any portion of any street, alley, service drive, or other space intended for general public/patron travel.

2. Loading/unloading spaces shall be a minimum of 12 feet in width, 55 feet in length and have a clearance of at least 14 feet in height.

3. If truck wells are to be used, a protective railing or wall shall be provided along the sides of the well.

4. Loading/unloading spaces or truck wells shall not be located within the required front yard.
5. Loading/unloading spaces facing a Residential District shall be screened from view by a wall and/or landscaping.
6. Required loading/unloading spaces shall not be included in calculations for parking spaces needed to meet general parking requirements.
7. The Planning Commission may waive the requirement for loading/unloading space upon demonstration by the applicant that the proposed use does not involve the receipt or distribution of vehicles, materials, or merchandise in a manner that would require such loading/unloading space.

Chapter 21. Signs

SECTION 21.00 DESCRIPTION

This Chapter is designed to regulate and limit the size, location, and manner of construction or reconstruction of signs to protect the public health, safety, aesthetics, and general welfare of Eureka Charter Township residents. This Chapter will also protect all zoning districts from chaos and clutter, prevent injurious impacts from obstructed vision, eliminate distractions hazardous to motorists, protect uses from excessive signage, and provide the public with the ability to identify premises and establishments. Additionally, the provisions of this Chapter are designed to encourage the preservation of the Township's rural character through site design.

SECTION 21.01 INTENT AND PURPOSE

This Chapter is intended to regulate the type, number, physical dimensions, erection, placement, and maintenance of signs in the Township. Its purpose and intent are to:

A. Protect, promote, and further the public peace, health, and safety of residents, property owners, and visitors;

B. Prevent, eliminate, or minimize traffic hazards and pedestrian accidents caused by signage that obstructs vision or views, distracts or confuses motorists, or is improperly secured or constructed;

C. Protect the public's ability to identify establishments and premises;

D. Protect the natural beauty and distinctive character of the Township;

E. Protect commercial, business, office and industrial districts and areas from visual chaos and clutter;

F. Provide an environment that fosters the reasonable growth and development of business and commerce;

G. Protect and enhance property values; and

H. Balance the individual rights of property owners to communicate their message with the public's right to be free of unreasonable distractions and aesthetic intrusions.

SECTION 21.02 SCOPE

A. It shall be unlawful for any person to erect, place, or maintain a sign in Eureka Charter Township except in accordance with the provisions of this Chapter.

B. Permit Required. Unless otherwise provided by this Ordinance, all construction or reconstruction of signs shall require a sign permit and payment of fees as determined by the Township Board. No permit is required for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs.

C. Plan Required. When a site plan is required in accordance with Chapter 4 of this Ordinance, proposed signage shall be illustrated on the site plan showing the sign area, sign height, sign illumination, sign

location, setbacks from property lines, and other applicable information to enable the Township to determine compliance with the requirements of this Chapter.

D. When a site plan is not required, a scaled drawing clearly depicting this information shall accompany the sign permit application. The Zoning Administrator may require that additional information be illustrated on a plan or drawing to determine compliance with this Ordinance.

SECTION 21.03 DEFINITIONS

The following words shall have the meanings set forth in this Section:

A. Abandoned Sign: A sign for which no legal owner can be found; or a sign that is dilapidated or fallen into disrepair, or otherwise exhibits characteristics of abandonment in the opinion of the zoning administrator.

B. Banner Sign: A temporary sign constructed of canvas, paper, cloth, plastic, or other similar lightweight, non-rigid material attached to any structure, staff, pole, rope, wire, or framing which is anchored on two or more edges or at all four corners which is not permanently affixed to any wall or sign structure and is intended for a limited period of display.

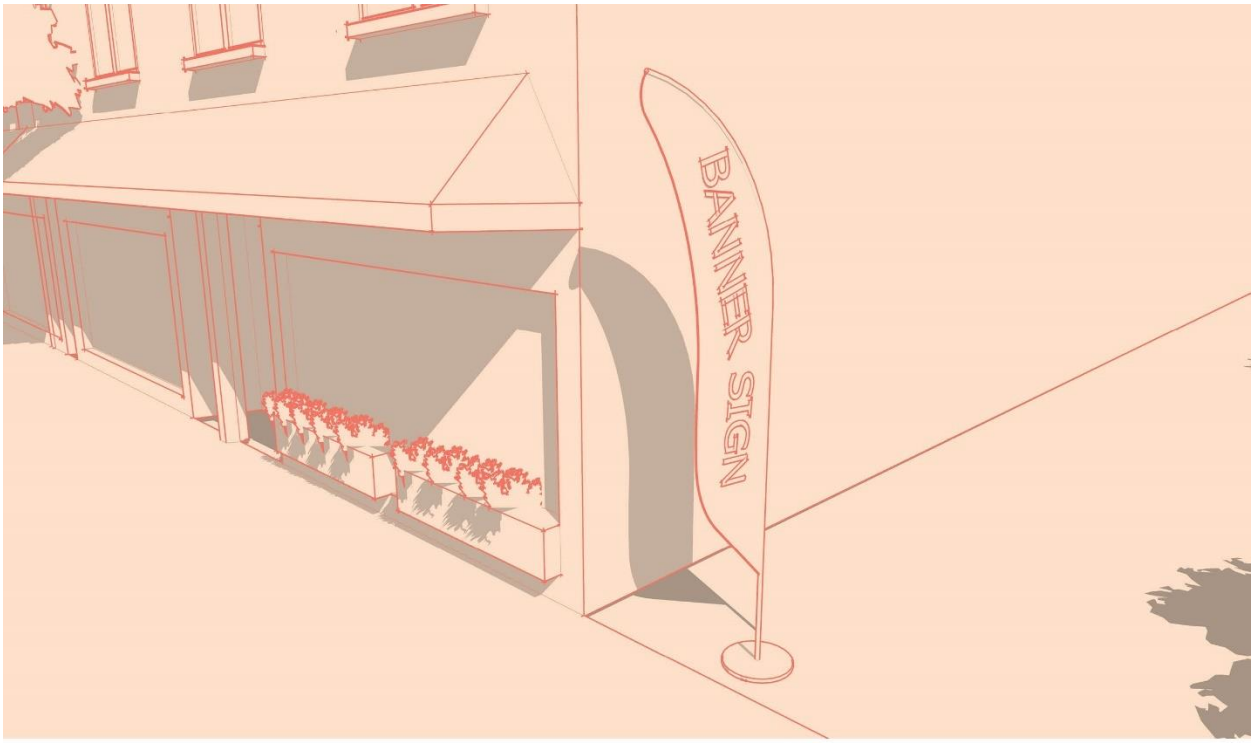


FIGURE 21.1 BANNER SIGN

C. Billboard: A large panel sign directing attention to a use, activity, or product not located, sold, manufactured, or processed on the premises on which the sign is located

D. Directional Sign: A sign designed to provide that gives directions and, instructions, identifying logos without text or facility information related to pedestrian and vehicular traffic into and out of, or within a site the use of the property on which the sign is located, such as parking, exit and entrance signs, and that sets forth no other commercial message.

E. Freestanding Sign: A sign supported by structures or supports that are placed on, or anchored in, the ground, and that is independent and detached from any building or other structure.

F. Pole Sign: A freestanding sign supported by one or more uprights, poles, or braces, or other support placed in or upon the ground.

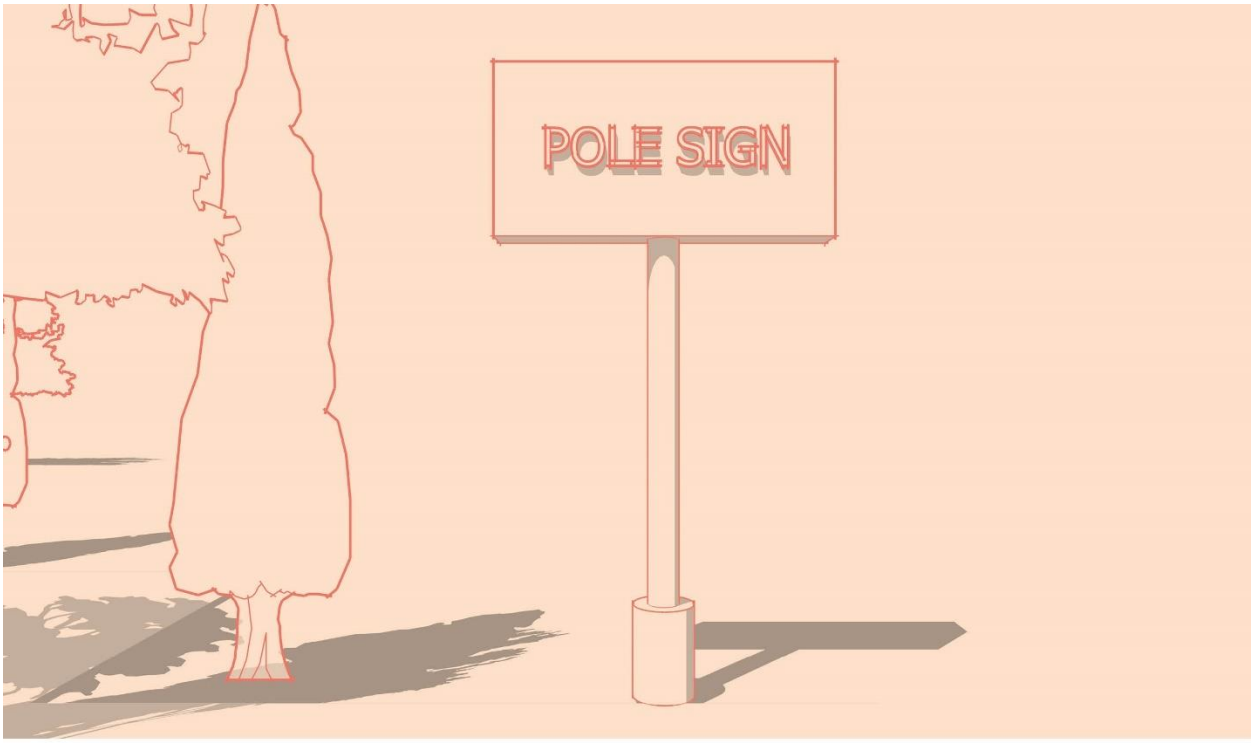


FIGURE 21.2 POLE SIGN

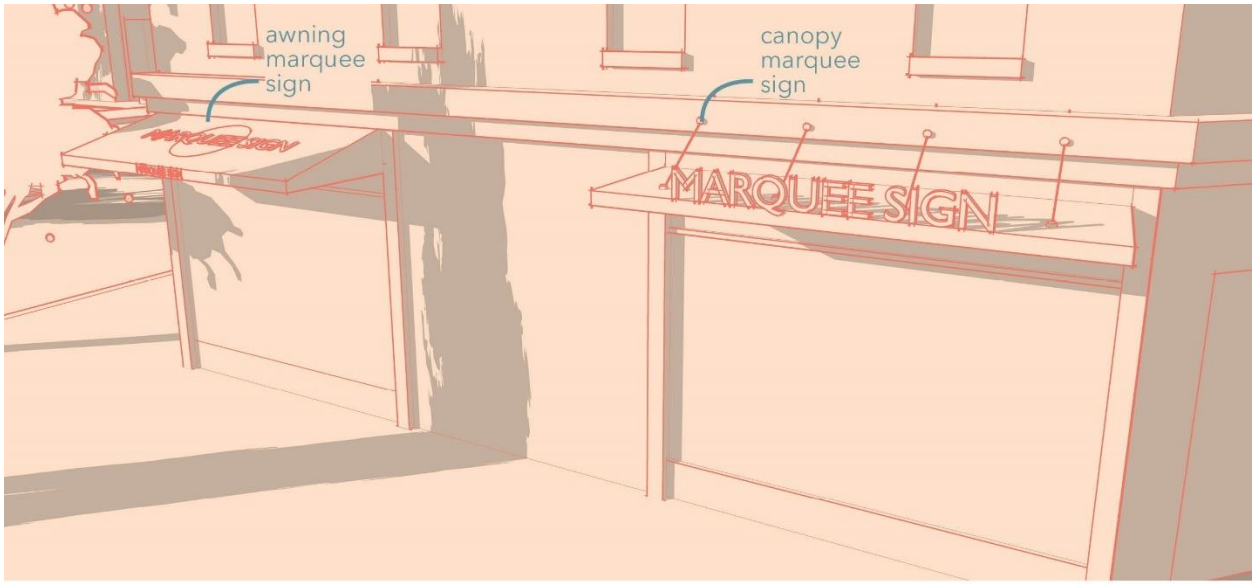
G. Government Sign: A temporary or permanent sign owned and/or placed by Eureka Charter Township, another township or city, Montcalm County, or the state or federal government.

H. Ground Sign: A freestanding sign that resting directly on the ground at its base, is independent of any other structure, and is not mounted on a pole(s).

FIGURE 21.3 GROUND SIGN

I. Illuminated Sign: A sign with electrical equipment installed for illumination that provides artificial light directly on or throughout its sign face from a source of light within such sign, or externally by a light source aimed at the sign's surface.

J. Marquee Sign: A sign that is either attached to, affixed to, or painted on a marquee, canopy, or awning projecting from and supported by the building.



K. FIGURE 21.4 MARQUEE SIGN

L. Portable Sign: A sign not permanently anchored or secured to either a building, or the ground, or other structure, such as, but not limited to, sandwich board signs ("A" frame signs), "T" shaped or inverted "T" shaped sign structures, and signs affixed to a vehicle or movable trailer which are not incidental to the vehicle's primary purposes.

FIGURE 21.5 PORTABLE SIGN

M. Projecting Sign: A building-mounted sign generally perpendicular to the building wall and extending more than 12 inches from such building that projects from and is supported by a wall of a building.

FIGURE 21.6 PROJECTING SIGN

N. Manual Changeable Copy Sign A sign or portion thereof on which the copy or symbols are changed manually through placement of letters or symbols on a panel mounted in or on a track system.

O. Electronic Changeable Copy Sign: A sign with a fixed or changing display composed of a series of lights that may be changed through electronic means.

P. Roof Sign: Any sign erected, constructed, and maintained wholly upon or over the roof of any building with its principal support on the roof structure.

FIGURE 21.7 ROOF SIGN

Q. Sign: Any object, device, structure, fixture, billboard or placard, or part thereof, situated indoors or outdoors, which uses graphics, symbols, fixtures, colors, illumination, projected images, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.

R. Temporary Sign: A sign that is not permanently affixed to the ground and is of design and construction that is not intended to be of a permanent nature.

S. Wall Sign: A sign that is attached directly to or painted upon a building wall in a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not extend more than 18 inches from the building wall with the exposed face of the sign in a plane parallel to the building wall.

FIGURE 21.8 WALL SIGNS

T. Window Sign: A sign attached to, in close proximity to, a window surface so as to be clearly and comprehensively visible from the outside.

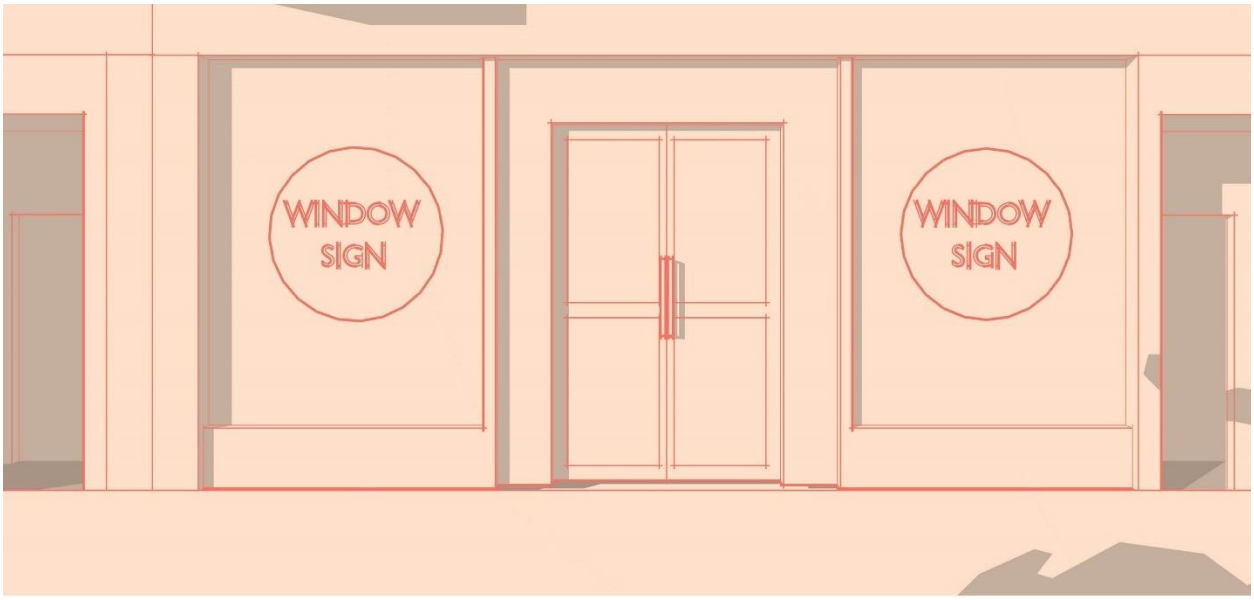


FIGURE 21.9 WINDOW SIGN

SECTION 21.04 GENERAL SIGN PROVISIONS

A. Sign Construction and Maintenance.

1. All signs shall be maintained in a safe, well-maintained, and reasonable condition at all times with proper bracing, anchorage, and foundation, and be subject to inspection by the Zoning Administrator.
2. An abandoned sign shall be removed by the owner, or by the Township at the expense of such owner, within 30 days upon written notice by Eureka Charter Township.
3. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other conditions which impair legibility or cause such sign to become unsightly through disrepair or action of the elements.
4. All signs shall be constructed and maintained in accordance with the building code in effect in Eureka Charter Township.
5. Illumination. Unless further regulated elsewhere in the Ordinance, sign illumination shall be opaque background with internally lit lettering, facelit channel lettering, backlit lettering, or externally lit. When illumination of signs is permitted, illumination shall comply with the following requirements:
   a. Illumination shall not be flashing, blinking, intermittent, or an on-and-off type of lighting.
   b. Illumination shall be arranged so that light is deflected away from adjacent properties so that no direct sources of light shall be visible to any motorist or pedestrian located in a public right-of-way or street easement or from any adjacent property.
   c. For externally illuminated signs, any external lighting of signs shall be downward facing, shielded, or otherwise directed to illuminate only the sign face.
   d. For backlit illuminated signs, individual bulbs and light sources shall not be visible.
6. No signage shall be permitted in any Clear Vision area, as defined in Section 3.04.
7. No vehicle, trailer, or other item which in the opinion of the Zoning Administrator has the intended function of acting as a sign shall be parked in any area abutting the street unless no other parking area is available.

B. Changeable Copy Signs. All ground, pole, and wall signs may include manual or electronic changeable copy in accordance with the following requirements:

1. No sign shall contain or appear to contain graphics or copy that is obscene, flashing, or blinking, or resembling police or emergency lights.
2. Message panels on a changeable copy sign shall be integrated into the sign such that it is included in the number, size, and location requirements of the District in which it is located. In no instance shall such message panels exceed 80 percent of the total sign area.
3. The following requirements shall apply to electronic changeable copy signs:

a. There shall be a minimum of five seconds between changes in messages, text, graphics, or other sign content.

b. The sign's brightness and intensity shall be adjusted during daylight and nighttime hours. The overall brightness and intensity shall only be enough to make the sign legible and shall not create a nuisance or a traffic hazard.

C. Wall Signs. No wall sign shall extend beyond the edge of the wall to which it is affixed and no wall sign shall extend beyond the roof line of a building.

D. Sign Area.

1. The area of a sign shall be measured within a single rectilinear perimeter composed of not more than eight straight lines, which enclose the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports, braces, and/or uprights on which such sign is placed.

2. Where the sign has two or more faces placed back-to-back and are at no point more than two feet apart from one another, the area of the sign shall be computed by the measurement of one of the faces if the two faces are of equal area. When the faces are not equal in size, the area of the larger face shall be used.

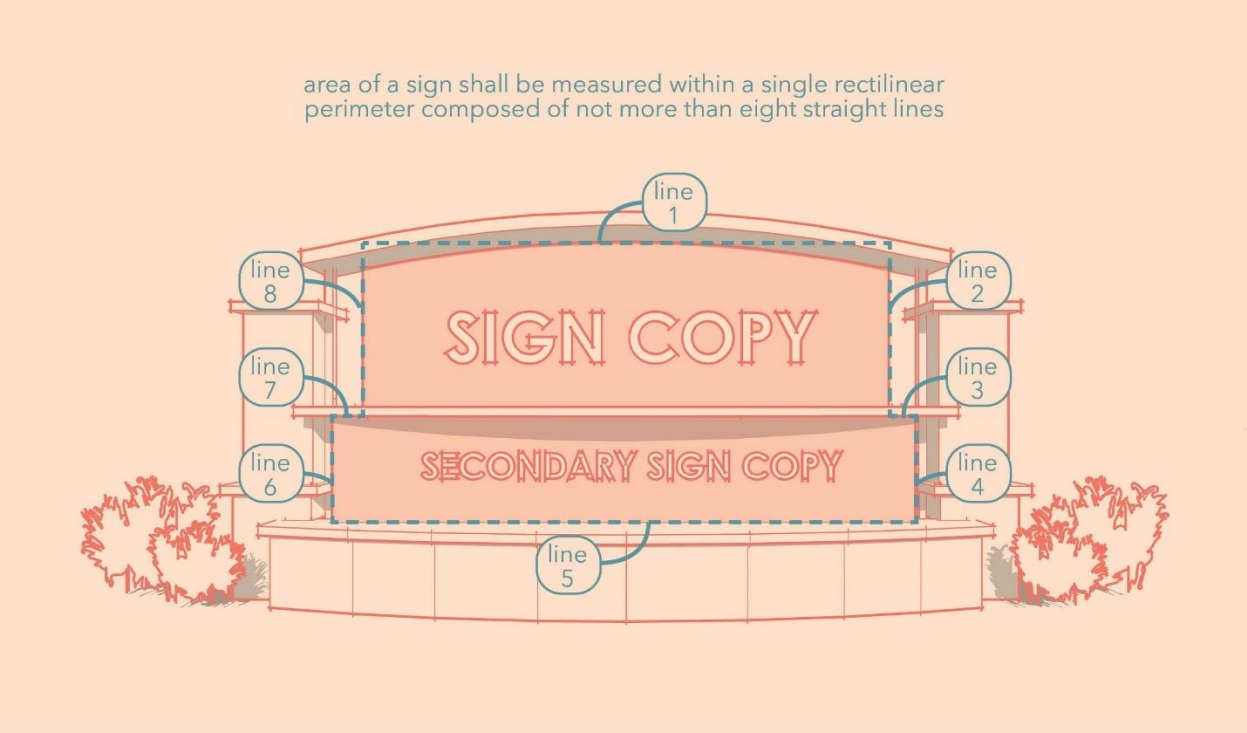


FIGURE 21.10 SIGN AREA

E. Sign Height.

1. The height of the sign shall be measured as the vertical distance from the highest point of the sign

to the grade of the adjacent street or the mean grade of the ground immediately beneath the sign, whichever is lower.

2. Any pole sign, marquee sign, or projecting sign, including any awning to which a sign is affixed or displayed, not resting directly on the ground shall maintain a minimum clear space of eight feet from the bottom of the sign to the ground.

3. For buildings with multiple tenants, sign areas for wall signs, projecting signs, and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign limits for that portion of the total wall.

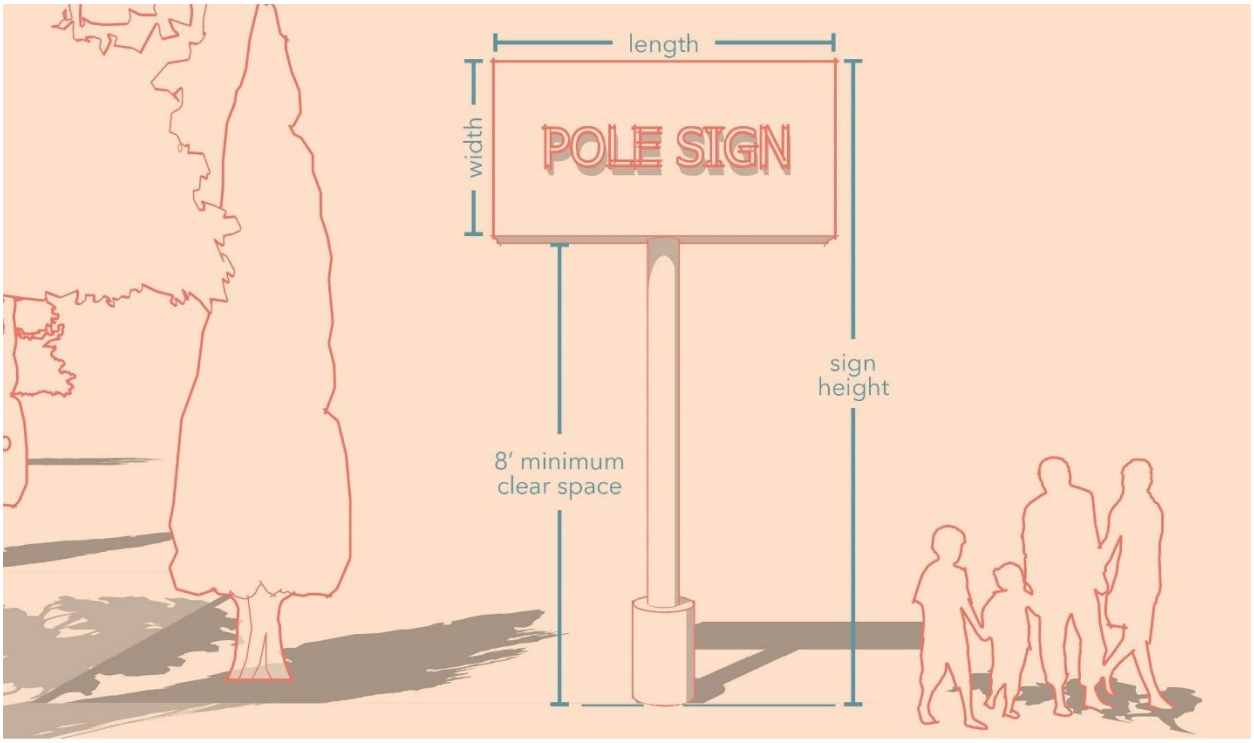


FIGURE 21.11 FREESTANDING SIGN MEASUREMENTS

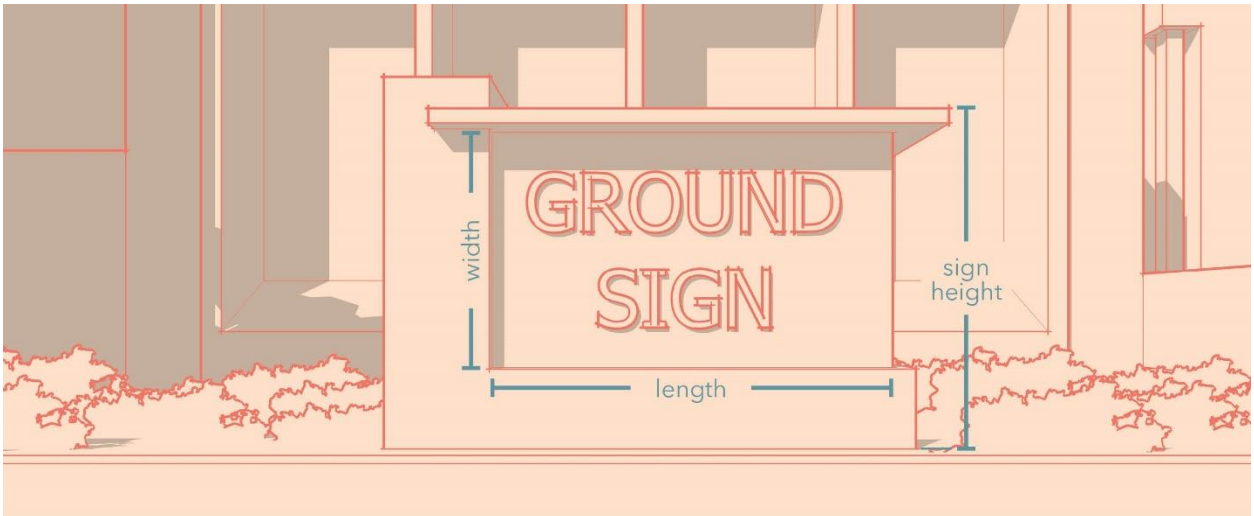


FIGURE 21.12 GROUND SIGN MEASUREMENTS

SECTION 21.05 EXEMPTED SIGNS

Except for the regulations of Section 21.03, the following signs shall be exempt from the provisions of this Chapter, including permitting requirements:

A. Any public notice, traffic control, or warning required by a valid and applicable federal, state, or local law, regulation, ordinance, or traffic control order.

B. Government sign.

C. Window sign.

D. Incidental sign not exceeding six square feet in area.

E. Holiday lights and decorations with no commercial message.

F. Not more than three flags or insignia, not exceeding 30 feet in height and 24 square feet in area of any nation, state, township, community organization, or educational institution. Any flag or insignia not meeting these requirements shall be considered a sign subject to the requirements of this Ordinance and not allowed as an exemption under this Section.

G. One temporary sign per lot or parcel is permitted per street frontage in the following circumstances:

1. Properties for Sale. If a property or building is for sale, lease, or rent, one additional temporary freestanding sign may be located on the lot that may remain for the duration of the time the property is being offered for sale, lease, or rent. Such sign shall be removed within 10 days after the property is sold, leased, or rented. Such signs shall not exceed an area of 12 square feet.

2. Election Signage. Additional temporary signs may be placed on a property during a time period of 60 days prior to an election date to 10 days after the election date.

SECTION 21.06 SIGNS PROHIBITED

The following signs shall not be allowed in any Zoning District:

A. Signs that are illegal under state laws or regulations and applicable local ordinances or regulations, and that are not consistent with the standards in this Ordinance.

B. Abandoned signs

C. Signs that do not relate to existing business or products for sale or available on the site, except for billboards.

D. Signs that are not clean and in good repair, and signs that are out of compliance with applicable building and electrical codes.

E. Signs not securely affixed to a supporting structure.

F. Signs that are not official traffic signs that appear to or attempt to regulate, warn, or direct the movement of traffic; which interfere with or resemble any official traffic sign, signal, or device; or which may obstruct a motorist's vision.

G. Searchlights, animated signs, flashing signs, or signs that scroll or flash text or graphics.

H. Signs, or portions thereof, which move mechanically or contain physical attachments that are moving or animated.

I. Roof signs.

J. Any sign attached to a light pole or utility pole, unless specifically designated and approved for such use.

K. Signs located in, projecting into, or overhanging within a public right-of-way or dedicated public easement, except:

   1. Official traffic signs posted by a governmental agency;

   2. Informational signs of a public utility regarding its poles, lines, pipes, or facilities;

   3. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the right-of-way; and

   4. Any sign installed by the Township or Road Commission for Montcalm County.

   5. Projecting signs located in compliance with this Chapter.

SECTION 21.07 SIGNS PERMITTED IN ALL DISTRICTS

The following signs are allowed within all Zoning Districts, provided that a sign permit is obtained from the Zoning Administrator:

A. Temporary Signs. In addition to temporary signs exempted in 21.04,G, the following temporary signs are permitted when located out of the public road right of way. Temporary signs shall not be illuminated:

   1. Construction Signage. The following standards shall apply to temporary signs located on

residential or commercial construction sites:

a. A lot or parcel shall be limited to one freestanding sign per street frontage.

b. Signs shall not exceed 12 square feet in area in residential districts and 32 square feet in area in non-residential districts.

c. Signs shall not exceed 6 feet in height.

d. Signs shall not be erected until a building permit has been issued for the construction project and construction activity has begun.

e. Signs shall be confined to the site of construction and removed immediately upon the issuance of an Occupancy Permit for the building or structure.

2. Special Event Signage. The following standards shall apply to temporary signs located on a lot or parcel with a special event:

a. A lot or parcel shall be limited to one temporary sign.

b. Temporary signs shall be located on the lot on which the special event is held.

c. The display of such signs shall be limited to 21 days immediately preceding the special event, such signs shall be removed within 48 hours of the conclusion of the special event.

d. Signs shall not exceed 12 square feet in area in residential districts and 32 square feet in area in non-residential districts.

e. The maximum height of such signs shall be 6 feet.

f. The location of such signs shall be approved by the Zoning Administrator. The Zoning Administrator shall determine that the signs will not create a hazard, block the vision of pedestrians and vehicles, or create any other unsafe condition.

g. Sign permits are not required for K-12 educational institutions, non-profit organizations, and religious institutions provided that the all other standards of this subsection are met.

3. On any other lot or parcel, the following standards shall apply:

a. A lot or parcel shall be limited to one temporary sign per street frontage.

b. The Zoning Administrator may issue a sign permit to allow such temporary sign up for to one year.

c. The following dimensional standards of Table 20.2 shall be met:

Table 21.1 Temporary Sign Standards

Location	Maximum Area	Maximum Height	Minimum Setbacks
In residential districts or for residential uses	8 square feet	6 feet	Front Yard: 10 feet Side Yard: 10 feet Rear Yard: 10 feet From Driveway: 15 feet

In non-residential districts or for non-residential uses	32 square feet	6 feet	Front Yard: 10 feet Side Yard: 15 feet Rear Yard: 15 feet From Driveway: 15 feet

B. Directional Signs. Directional signs shall be subject to the following requirements:

1. A directional sign may contain a logo of the establishment to which it is associated, but shall not contain any commercial messaging.
2. A single directional sign shall not exceed six square feet in area or four feet in height.
3. Directional signs shall not be illuminated.

SECTION 21.08 SIGNS PERMITTED BY ZONING DISTRICT

The following signs are permitted within the Zoning Districts indicated:

Section 21.08.01 Signs Permitted in AG, RR, SR, UR, and MHR Districts

A. For all home occupations, the signs listed in Table 21.2 below are permitted subject to the following requirements:

Table 21.2 Home Occupation Signs Permitted in AG, RR, SR, UR, and MHR

Type	Maximum Number	Maximum Area	Maximum Height	Illumination Permitted	Minimum Setbacks
Wall	1 per lot	8 sq ft in AG 6 sq ft elsewhere	N/A	AG only	N/A

B. For all nonresidential uses, the signs listed in Table 21.3 below are permitted subject to the following requirements:

Table 21.3 Non-Residential Signs Permitted in AG, RR, SR, UR, and MHR

Type	Maximum Number	Maximum Area	Maximum Height	Illumination Permitted	Minimum Setbacks
Wall	1 per wall facing a street or parking lot	5% of affixed wall or 50 sq ft, whichever is less	N/A	No	N/A
Ground	1 per street frontage	32 sq ft	6 feet	No	10 feet from any lot line 15 feet from any driveway

Section 21.08.02 Signs Permitted in GC RC, OSC-1, OSC-2, and IND Districts

A. For all permitted and special land uses, the following signs are permitted subject to the following requirements:

Table 21.4 Signs Permitted in GC, RC, OSC-1, OSC-2, and IND

Type	Maximum Number	Maximum Area	Maximum Height	Illumination Permitted	Minimum Setbacks
Wall OR	1 per street frontage	5% of wall face, or 50 sq ft, whichever is less	N/A	Yes	N/A
Marquee OR	1 per street frontage	30% of marquee area	N/A	Yes	N/A
Projecting AND	1 per street frontage	20 sq ft	N/A	Yes	N/A
Ground OR	1 per street frontage	48 sq ft	6 feet	Yes	10 feet from any lot line 15 feet from any driveway
Pole/Pylon AND	1 per street frontage	50 sq ft	30 feet	Yes	10 feet from any lot line 15 feet from any driveway
Portable	1 per lot	32 sq ft	6 feet	Yes	10 feet from any lot line 15 feet from any driveway

B. Multi-Tenant Establishments.

1. Wall, Marquee, or Projecting Signs. Each individual establishment in a multi-tenant commercial building or development is permitted a separate wall, marquee, or projecting sign. The wall or marquee area shall be calculated based on that part of the wall or marquee occupied by the entity requesting the sign, and shall not exceed the maximum area outlined in Table 21.4 above.

2. Ground and Pole/Pylon Signs. Each individual establishment in a multi-tenant commercial building or development is not permitted a separate ground or pole/pylon sign; one (1) collective ground or pole/pylon sign may be used subject to the standards above, provided that a collective ground or pole/pylon sign shall not exceed an area of 72 square feet.

3. Portable Signs. Only one (1) portable sign shall be permitted per frontage for multi-tenant establishments, subject to the requirements outlined in Table 21.4 above.

SECTION 21.08 BILLBOARDS

A. Permit Required. No person, firm, or corporation shall erect a billboard within Eureka Charter Township without first obtaining a zoning permit and a permit pursuant to the Highway Advertising Act (Act 106 of 1972, as amended). Said permit shall be issued for a period not to exceed one year and shall be renewed with the Township at the same time as required by the Highway Advertising Act (Act 106 of 1972, as amended) by obtaining required Zoning and Building permits and receiving inspections confirming compliance with this Ordinance, as amended, and with the Building Code in effect at the time of the application for said renewed permits.

B. Locations Permitted.

1. Billboards are permitted only in the GC, RC, OS-1, and OS-2 Zoning Districts.
2. Billboards are permitted only on a lot that:
   a. Does not contain any structure or building on the site; and
   b. Does not contain any use on which outdoor activities are conducted, other than existing non-conforming agricultural uses.
   c. Has frontage on M-57 and/or M-91.
   d. Not more than three (3) billboards are allowed in total in Eureka Charter Township.

C. Spacing.

1. No more than three billboards may be located per linear mile of road, regardless of whether such billboards may be located on different sides of the road. The linear mile measurement shall not be limited to the boundaries of Eureka Charter Township where the particular road extends beyond such jurisdictional boundaries.
2. No billboard shall be located within 1,000 feet of another billboard.
3. No billboard shall be located within 500 feet of a Residential Zoning District or residential use.
4. No billboard shall be located closer than 75 feet from a front lot line, 25 feet from a side lot line, and 25 feet from a rear lot line.
5. Billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirements set forth herein. However, the following billboard arrangements are considered one billboard.
   a. Double-faced billboard structures having only one face visible to traffic proceeding from any direction on a road;
   b. Billboard structures having tandem billboard faces with two parallel billboard faces side by side and facing the same direction; or
   c. Stacked billboard faces having one face directly above the other with both billboards facing in the same direction.

D. Illumination. No billboard shall be illuminated or create the illusion of being illuminated.

E. Movement. No billboard shall contain motion or create the illusion of motion or reflection.

F. Billboard Size.

1. The service display area of any side of a billboard may not exceed 300 square feet. In the case of a billboard structure with tandem or stacked billboard faces, the combined surface display area of both faces shall not exceed 300 square feet.

2. The maximum height to the top of the billboard shall not exceed 30 feet above the grade of the ground on which the billboard sits or covers, or of the grade of the abutting road, whichever is lower.

G. Construction and Maintenance.

1. No billboard shall be on top of, cantilevered, or otherwise suspended above the roof of a building or structure.

2. A billboard must be constructed in such a manner that it will withstand all wind and vibration forces that can normally be expected to occur in the region and vicinity, pursuant to applicable building codes.

3. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.

SECTION 21.09 NON-CONFORMING SIGNS

A. Signs lawfully erected prior to the adoption of this Ordinance or applicable amendment thereto which do not meet the standards of this Chapter may be continued, except as hereinafter provided. No non-conforming signs shall:

1. Be structurally altered so as to change the shape, size, type, or design of the sign; or

2. Be reestablished or continued after being abandoned for 90 days or longer.

3. Be moved

B. Signs lawfully erected prior to the adoption of this Ordinance or applicable amendment thereto which do not meet the size limitations of this Chapter may be changed to another non-conforming sign, provided that the sign replacing the original non-conforming sign is at least 30% smaller in area than the original non-conforming sign.

C. No sign shall be required to be removed that was erected in compliance with this Chapter if such sign becomes non-conforming due to a change occurring after the adoption of this Ordinance or applicable amendment thereto in the location of a building, streets, or other signs, and which change is beyond the control of the owner of the premises on which the sign is located, unless it is deemed by the Township's Zoning Administrator to be a safety hazard to motorists or pedestrians.

D. If the owner of the premises on which the sign is located changes the use of the building (or site) or changes the location of any property line or sign so that any sign is rendered non-conforming, such sign must be removed or made to conform to this Chapter.

E. Abandonment.

Chapter 22, Landscaping

SECTION 22.00 PURPOSE

It is the intent of this Chapter to establish standards for buffer zones, landscaping, and screening to preserve and enhance the aesthetic qualities, character, privacy, and environment of the Township. It is further intended to reduce the negative impacts between incompatible land uses. Through landscaping and green infrastructure strategies, the rural character of the Township is preserved and enhanced. Therefore, the purpose of these standards is to encourage development that is compatible with the surrounding natural setting of the Township and limit negative impacts associated with intensive land uses.

SECTION 22.01 APPLICABILITY

All development requiring site plan review pursuant to Chapter 4 of this Ordinance shall comply with the requirements of this Chapter. When site plan review is required pursuant to Chapter 4, a landscape plan shall be submitted in conjunction with the site plan. The landscape plan shall clearly describe the location, type, size, height, and spacing of plant materials, along with any other details deemed necessary by the Zoning Administrator.

SECTION 22.02 REQUIRED SCREENS AND BUFFERS

A. General Standards. Buffers shall be placed to screen the developed areas of the property between specified uses and may consist of a screen, planted buffer or berm, fencing, or combination thereof. When a buffer is required, it shall comply with the following standards:

1. Required buffers shall be placed within a strip the along the specified property line(s), extending the length necessary to screen the developed areas of the subject property. Developed areas may include, but are not limited to, buildings and structures, parking, loading, and storage areas, refuse containers, and aboveground utilities.

2. Buffer Screens. When required, there shall be provided and maintained a buffer screen consisting of landscaping or fencing at least six feet in height, sufficient to provide adequate screening between developed areas of the property for the purpose of protecting the quality and integrity of adjacent uses. One, or a combination, of the following screening options shall be placed within the required strip:

   a. A wall or fence used for all or part of the obscuring screen. In addition to a wall or fence, four shrubs per 20 linear feet of wall or fence must be installed along the exterior edge of the screen.

   b. A vegetative berm used for all or part of the obscuring screen. The combined height of the berm and shrubbery plant material shall be at least six feet. All required plant materials shall be placed on the top and both sides of the slope.

   c. A continuous vegetative hedge used for all or part of the obscuring screen. The height of the

hedge must be a minimum of six feet upon installation of plant material and must maintain a minimum 80% summer opacity.

3. Planted Buffer. When required, a planted buffer shall be located within the specified landscape strip and include a mixture of evergreen and deciduous trees spaced at a maximum of 20-foot intervals, or an equivalent measure of screening as approved by the Planning Commission.

4. The specified buffer shall be required on the subject parcel even if the adjacent parcel is unimproved land, except that a performance guarantee may be submitted in lieu of the required buffer where adjacent land is unimproved only if the buffer is installed when the adjacent property begins development and completed prior to any occupancy of the adjoining use.

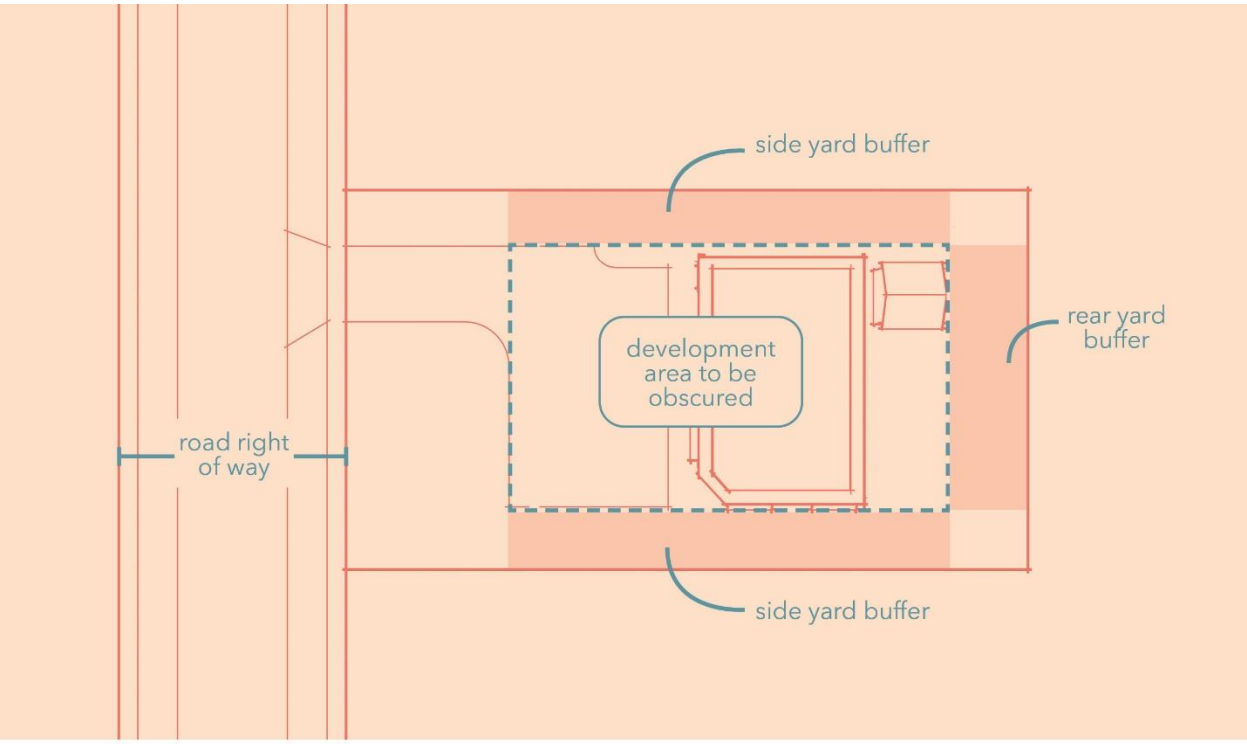


FIGURE 22.1 REQUIRED BUFFER PLACEMENT

B. Non-Residential Uses.

1. For any Commercial or Office district abutting or adjacent to a Residential district or use, there shall be a buffer screen located in a landscape strip at least 10 feet wide along the side and rear property boundaries abutting or adjacent to such Residential district or use.

2. For any Industrial district abutting or adjacent to a Residential district or use, there shall be a buffer screen and a planted buffer located in a landscape strip at least 30 feet wide along the side and rear property boundaries abutting or adjacent to such Residential district or use.

3. For any Industrial district abutting an Office or Commercial district(s) or use(s), there shall be a planted buffer located in a landscape strip at least 10 feet wide along the side and rear property boundaries abutting or adjacent to such Office or Commercial district or use.

C. Multi-Family Residential Uses. For any multi-family residential use abutting or adjacent to a single-family or two-family use, there shall be a planted buffer located in a landscape strip at least 20 feet wide along any property boundary abutting or adjacent to such single-family or two-family use.

D. Manufactured Home Park Uses.

1. For any Manufactured Home Park Residential district abutting or adjacent to any other Residential use or Office district, there shall be a planted buffer located in a landscape strip at least 20 feet wide along the side and rear property boundaries abutting or adjacent to such Residential use or Office district.

2. For any Manufactured Home Park Residential district abutting or adjacent to a Commercial district, there shall be a buffer screen located in a landscape strip at least 20 feet wide along the side and rear property boundaries abutting or adjacent to such commercial use.

E. Adjustment of Requirements.

1. Pursuant to the site plan review process described in Chapter 4, the Planning Commission or Zoning Administrator may review a landscape plan and determine that the provisions of this Chapter would better serve the intent and purpose of this Ordinance if modified. Additional landscaping beyond the minimum requirements may be required where screening is needed to minimize visual, noise, or other impacts from the proposed development; where there may be some other adverse effect caused by the use being reviewed; or where elsewhere deemed necessary due to the scope and nature of the proposed development.

2. Should the Planning Commission or Zoning Administrator determine that an adequate landscaping screen already exists on a site or that a landscaping screen is not required, the applicable provisions of this Chapter may be waived in whole or in part. Criteria that shall be used when considering a landscaping screen waiver shall include, but shall not be limited to:

a. Topography variations

b. Existence of natural vegetation

c. Existing and proposed building placement

d. Sight distances

e. Adjacent land uses

f. Existence of floodplain and areas of poor soil

SECTION 22.03 PARKING LOT LANDSCAPING

A. Applicability. In addition to the site landscaping required in Section 22.02 above, any new construction of a parking lot, expansion of a parking lot by 25 percent of its original existing area, or substantial alteration or reconstruction of an existing parking lot (e.g., removal and replacement of existing pavement) must be landscaped in accordance with this Chapter.

B. General Requirements.

1. Landscaping shall be planned and installed such that, when mature, it does not obscure traffic signs, fire hydrants, or lighting; does not create a negative impact on drainage patterns on the site or on adjacent properties; does not obstruct vision for reasons of safety, ingress, or egress; or cause damage to utility lines (above or below ground) and public roadways.
2. Any landscaped area required by this Chapter shall be constructed outside any public or private street right-of-way.
3. All landscaped areas, including perimeter areas, shall be protected by a barrier (e.g. raised standard or rolled concrete curb), except where landscape islands in parking lots are being utilized as part of a stormwater detention or conveyance system.
4. Any landscaping existing within or bordering any existing parking area shall not be removed unless replaced with landscaping meeting the requirements of this Chapter.

C. Frontage Landscaping. Where any parking area directly abuts or faces a public or private street, a screen shall be required between the parking area and the road right-of-way. Such screen shall consist of, at a minimum, one of the following:

1. A strip of land at least five feet in width and a solid screen comprised of a hedge or decorative wall, or any combination thereof, which measures at least three feet in height, or
2. A strip of land at least 10 feet in width containing one approved tree and three shrubs placed at a maximum of 30-foot intervals.

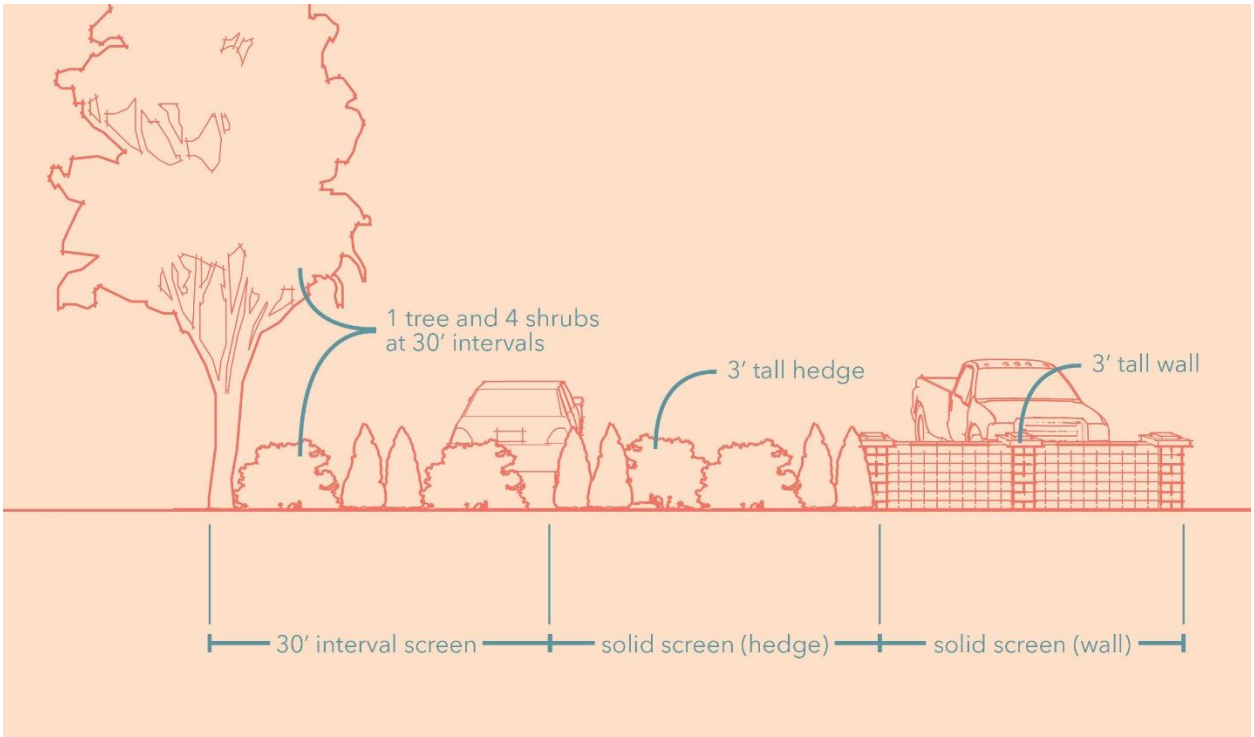


FIGURE 22.2 PARKING LOT FRONTAGE LANDSCAPING

D. Interior Landscaping. For any parking area containing 20 or more parking spaces, interior landscaping

shall be provided according to the following standards:

1. The interior of the parking lot shall begin at the outside boundary of the parking area.
2. The interior area of any parking lot shall incorporate one planting island or peninsula and one approved tree per each 20 parking spaces or fraction thereof.
3. Each planting island or peninsula shall be at least 90 square feet in landscaped area and have a minimum width of nine feet; however, planting islands and peninsulas may be combined so long as there is at least 90 square feet of landscaped area per each 20 parking spaces or fraction thereof.
4. At least one approved tree shall be included in each planting island or peninsula with the balance of the island covered with landscaping, such as grass, approved shrubs, perennials, or ground cover.
5. Landscaped islands may be used to separate pedestrian areas, parking rows, maneuvering areas, and drives.

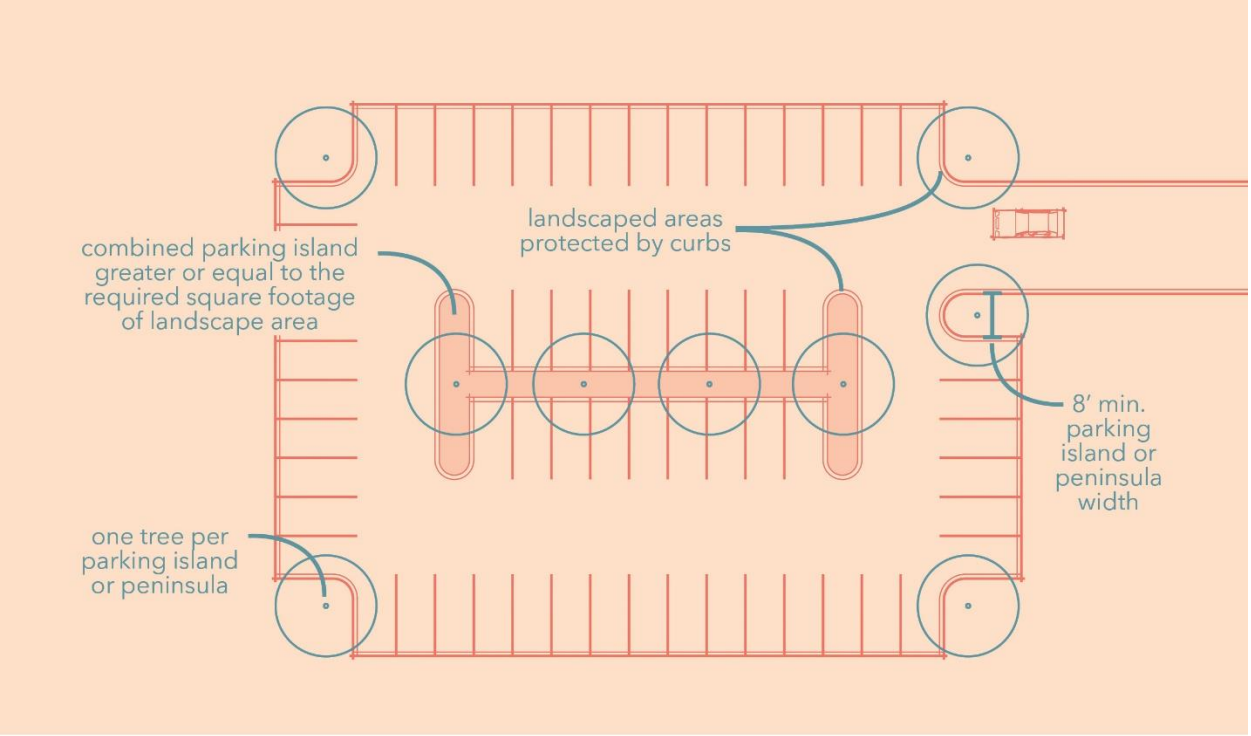


FIGURE 22.3 PARKING LOT INTERIOR LANDSCAPING

SECTION 22.04 GENERAL LANDSCAPE STANDARDS

A. Minimum Plant Material Standards.

1. All plant materials shall be certified to be hardy to Montcalm County, free of disease and insects, and conform to the standards of the American Standards for Nursery Stock.

2. Minimum Plant Size at Time of Installation:

Table 22.1 Plant Size at Time of Installation	
Tree Type	**Minimum Size at Planting**
Deciduous Canopy Tree	2 ½ inch caliper
Deciduous Ornamental Tree	1 ½ inch caliper
Evergreen Tree	6 foot height
Deciduous Shrub	2 foot height
Upright Evergreen Shrub	2 foot height
Spreading Evergreen Shrub	18-24 inch spread

3. Plant materials shall not consist of more than 50% of any one plant species.
4. Any site on which a use permitted by this Ordinance is established shall install a lawn or other type of living ground cover for all land areas not covered by impervious surfaces within 12 months following the issuance of a Certificate of Occupancy. A performance guarantee may be required by the Township to ensure that landscaping is installed within the 12-month period. No landscape materials other than lawn and street trees approved by the Zoning Administrator shall be planted within any public or private road right-of-way.
5. The following trees are prohibited as they split easily, their wood is brittle and breaks easily, their roots clog drains and sewers, and they are unusually susceptible to disease or insect pests:

Table 22.2 Prohibited Species	
Common Name	**Horticultural Name**
Boxelder	Acer Negundo
Ginkgo	Ginko Biloba, female only
Honey Locust	Gleditsia Triacanthos (with thorns)
Mulberry	Morus Species
Poplar	Populus Species
Black Locust	Robinia
Willow	Salix Species
American Elm	Ulmus Americana
Siberian Elm	Ulmus Pumila
Slippery Elm/Red Elm	Ulmus Rubra
Chinese Elm	Ulmus Parvifola

B. Mature Tree Preservation.

1. It is the intent of this section that developments, structures, utilities, and all other site activities be designed, installed, and construed so that the maximum number of mature trees with a

diameter of 12 inches or larger at breast height (DBH) are preserved on all lots or parcels. To minimize tree loss and mitigate tree removal on wooded lots or parcels with trees, the following shall be submitted as part of the landscaping plan required by this Chapter:

a. The location, size, and identification of species of all existing mature trees with a diameter of 12 inches or greater at breast height (DBH) on the subject parcel(s).

b. Demonstration that the proposed development would retain as many healthy, existing mature trees with a diameter of 12 inches or larger at breast height (DBH) as practicable.

c. Tree protection fencing plan showing the locations of temporary fencing to be installed prior to all construction activities. Tree protection fencing shall surround all existing trees identified for preservation and shall extend to the canopy dripline. This plan may be included on the landscape plan itself or be presented as a separate drawing to be included in the plan set.

C. Minimum Standards for Berms.

1. Berms shall have a minimum height of three feet and maintain a side slope not to exceed a one-foot rise to a three-foot width ratio.

2. Berm areas not containing planting beds shall be covered with grass or approved permanent vegetative ground cover maintained in a healthy growing condition.

3. If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.

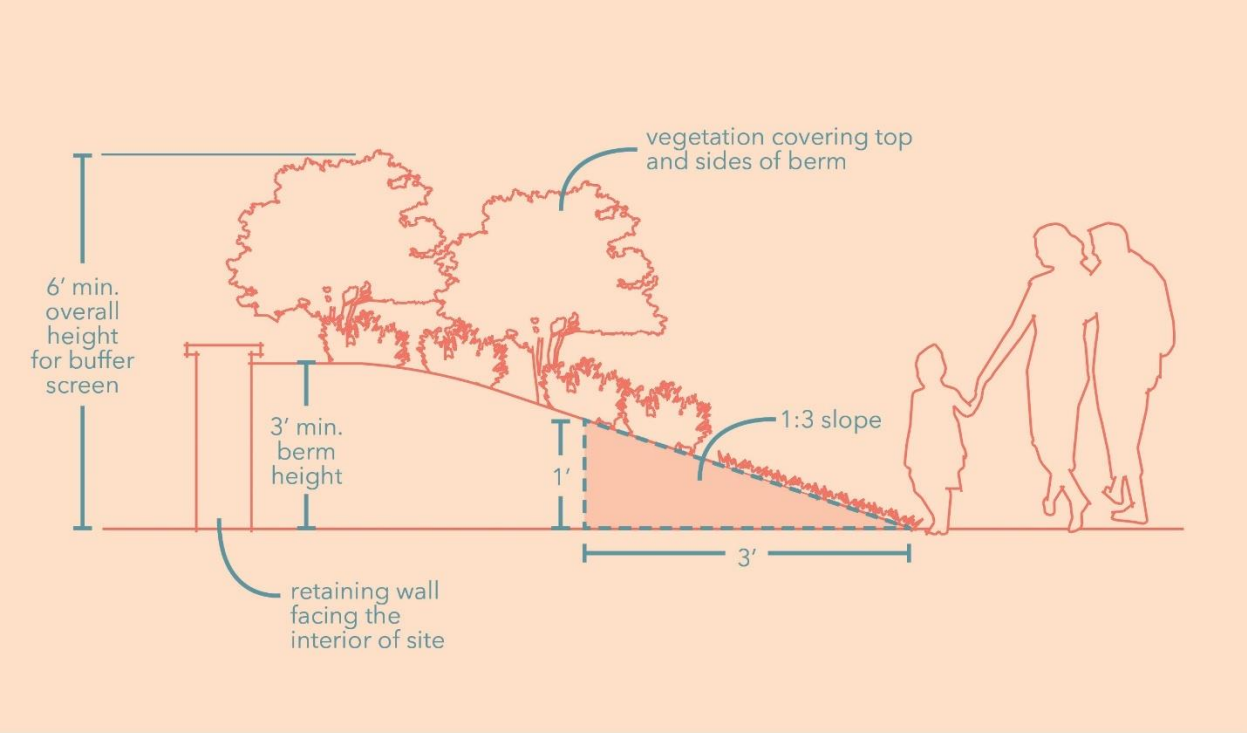


FIGURE 22.4 BERM STANDARDS

D. Minimum Standards for Obscuring Screen Walls and Fences.

1. All obscuring screen walls and fences shall be constructed with new, durable, weather-resistant, easily maintained materials. Chain link and barbed wire fences are not permitted.

2. The obscuring screen wall or fence may be constructed with openings that do not exceed 20% of the wall surface. The openings shall not reduce the intended obscuring effect of the wall.

E. Any plant material, berm, obscuring screen, or other landscape feature shall be installed in such a manner as to not create a negative impact on drainage patterns on the site or on adjacent properties, obstruct clear vision areas, ingress or egress, or cause damage to utility lines (above and below ground) and public roadways.

F. Stormwater Management.

1. Detention/retention areas shall be permitted within buffer zones provided they do not hamper the screening intent of the buffer or jeopardize the survival of the plant materials.

2. Green Infrastructure Best Management Practices (BMPs) should be implemented, where practicable, according to the following hierarchy of preference:

a. Conservation of natural areas;

b. On-site infiltration practices, including, but not limited to, rain gardens, bioretention cells, vegetated swales, filter strips, constructed wetlands, and porous pavement;

c. Capture and reuse of runoff through low-impact practices, including, but not limited to, green roofs, blue roofs, and rain barrels.

G. If a project is constructed in phases, the landscape screen may also be constructed in phases. The Zoning Administrator shall determine the extent of the landscaping required for each phase based on:

1. Adjacent land uses

2. Distance between land uses

3. Operational characteristic both on- and off-site

4. Building heights

5. Physical characteristics of the site such as topography and existing vegetation

H. If weather conditions or other factors are determined by the Zoning Administrator to be sufficient to warrant a delay in installing landscaping, a performance guarantee of an adequate amount to ensure the installation of all required landscaping within a reasonable period of time shall be required.

I. Maintenance. All landscaping and screening materials required by this Ordinance, whether living (e.g., shrubs, lawns) or non-living (e.g., fences, curbs), shall be maintained by the property owner. All landscaping shall be maintained in a healthy, neat, and orderly state, and be free from refuse and debris. Any dead or diseased plants shall be replaced as soon as practicable.

Chapter 23, Nonconformities

SECTION 23.00 PURPOSE AND INTENT

A. It is recognized that there exists certain lots, buildings, structures, and uses which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or an amendment to it. It is the intent of this Ordinance to permit these nonconformities until they are removed or are otherwise no longer non-conforming, but not to encourage their survival, intensification, expansion, or extension.

B. Nonconforming lots, buildings, structures, and uses are declared by this Ordinance to be incompatible with permitted or other uses in the zoning districts in which they are located. It is the intent of this Ordinance that these nonconformities shall not be enlarged, moved, intensified, expanded, or extended, nor be used as grounds for adding other buildings, structures, or uses prohibited by this Ordinance.

SECTION 23.01 GENERAL PROVISIONS

A. A lawful use of land, building, or structure which is under substantial construction at the time of adoption or amendment of this Ordinance shall be allowed to continue as a nonconformity if completed and shall be subject to the provisions of this Chapter.

B. Any lot, use of land, building, or structure that was established in violation of the provisions of this or a previous Zoning Ordinance having jurisdiction at the time it was established shall remain in violation of this Ordinance.

C. Any lot, use of land, building, or structure that was lawfully established under this or a previous Zoning Ordinance, but violates the terms of the permit under which it was established, shall remain in violation of this Ordinance.

D. None of the provisions of this Chapter are meant to preclude normal repairs and maintenance on any nonconforming building or structure. Nor are the provisions of this Chapter intended to prevent the strengthening or correction of any unsafe condition of the building or structure, provided that the building or structure as it existed on the effective date or amendment of this Ordinance shall not be altered or increased except in compliance with this Chapter. Any structural change or alteration is an unlawful expansion.

E. The burden of proof for establishing or proving the existence of any aspect of a lawful nonconforming structure, sign, lot, or use (as well as the size, scope, type, intensity, and extent thereof) is on the owner of the property involved.

F. A change of tenancy, ownership, or management of any existing nonconforming lots, uses of land, buildings, or structures, or combination thereof, shall be permitted.

SECTION 23.02 NONCONFORMING LOTS

A. Where a lawful nonconforming lot of record exists at the time of the adoption or amendment of this Ordinance and it does not meet the current minimum requirements for lot width, frontage, area, or other lot dimensional requirements due to the adoption or amendment of this Ordinance or a new ordinance amendment, such lot may be used for any use permitted by the zoning district in which the lot is located provided that it meets all applicable building and structure setback, lot coverage, yard, and similar requirements.

B. For two or more lawful nonconforming lots of record, combination of such lots, and/or portions of such lots of record in existence at the time of passage of this Ordinance, or an amendment thereto, the lots involved shall be deemed automatically combined and shall be considered to be one undivided parcel for the purposes of this Ordinance if they:

   1. Are in common ownership;
   2. Are adjacent to each other or with continuous frontage;
   3. Are vacant or have a principal building on either or any of the lots; and
   4. Individually do not meet the lot width, area, or other dimensional requirements of this Ordinance;

   No such combined parcel or portion of such parcel shall ever be split, detached, or be used or divided in a manner that diminishes compliance with the lot width, area, frontage, and dimensional requirements of this Ordinance.

SECTION 23.03 NONCONFORMING USES

A. A nonconforming use shall not be enlarged , extended or increased or intensified in scope, frequency, size, area, mass or intensity, nor extended to occupy a greater area of land or space than was occupied at the effective date of the adoption or amendment of this Ordinance.

B. No part of any nonconforming use shall be moved unless such movement eliminates the nonconformity.

C. If a nonconforming use is abandoned for any reason for a period of more than one year, any subsequent use shall fully conform to the requirements of this Ordinance.

D. A nonconforming use shall be considered to be abandoned if one or more of the following conditions exist, which are deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:

   1. Utilities such as water, gas, or electricity to the property have been disconnected;
   2. The property, buildings, or grounds have fallen into disrepair;
   3. Signs or other indications of the existence of the nonconforming use have been removed;
   4. Removal of buildings, structures, equipment, or fixtures which are necessary for the continuation or operation of the nonconforming use; or

5. Other actions which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.

E. A nonconforming use may be changed to another nonconforming use provided that the new use is approved by the Zoning Board of Appeals and that all of the following determinations are made by the Board of Appeals:

1. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood and uses than the previous nonconforming use.
2. The proposed nonconforming use shall not be enlarged or increased nor extended to occupy a greater or increased area of land, nor have a greater scope or intensity than the previous nonconforming use.
3. The proposed use is consistent with the Township's Master plan.
4. Appropriate conditions and safeguards are provided to ensure compliance with the intent and purpose of this Ordinance.

SECTION 23.04 NONCONFORMING BUILDINGS AND STRUCTURES

A. Where a lawful building or structure exists as of the effective date of this Ordinance or amendment to it that does not comply with the requirements of this Ordinance because of restrictions such as lot area, coverage, width, setback, size, height, yards, or other characteristics, such building or structure may remain as long as it is otherwise lawful.

B. No building or structure that is nonconforming due to its size, height, setback, or other dimensional characteristic may be enlarged or altered in a way that extends or increases the degree of nonconformance, except as noted in subsection C, below.

C. Where the setback of a building or structure is nonconforming by a distance equal to or less than one-half of the distance required by this Ordinance, the nonconforming setback may be extended along the same plane, provided that the degree of nonconformance is not increased, with the approval of the Zoning Administrator under the standards of subsection 23.03E.

D. Should a nonconforming building or structure be moved for any reason and for any distance, it shall be moved to a location that reduces or eliminates that nonconformity.

E. Should a nonconforming building or structure be destroyed to an extent of more than 60% of its replacement value, it shall lose its lawful nonconforming status and shall be reconstructed only in full conformance with all of the provisions of this Ordinance. However, a single-family detached dwelling may be reconstructed in its previously nonconforming location (i.e., the exact same footprint and size) and at its preexisting size. Any such reconstruction shall be completed within one year of the date at which the dwelling was destroyed.

F. Should a nonconforming building or structure be destroyed in an amount equal to or less than 60% of its replacement value, it may be reconstructed in its previously nonconforming location (i.e. the exact same footprint and size), but may not be enlarged in size or height. Said reconstruction shall be

completed within one year of the date at which the building or structure was destroyed.

Chapter 24, Zoning Board of Appeals

SECTION 24.00 CREATION AND MEMBERSHIP

A. There is hereby established and confirmed a Zoning Board of Appeals in accordance with Act 110 of the Public Acts of Michigan of 2006, as amended, being the Michigan Zoning Enabling Act. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided by said Act, as amended, and in such a way that the objectives of this Ordinance may be met.

B. Composition and Terms. The Zoning Board of Appeals shall consist of five (5) members appointed by the Township Board. Not more than one member shall be a member of the Planning Commission and one shall be a member of the Township Board. Members shall be qualified electors of the Township. Members shall be appointed for three-year staggered terms.

C. Alternate Members.

1. Up to two alternate members may be appointed by the Township Board for three-year terms. If two alternate members have been appointed, they may be called on a rotating basis, as they are available, to sit as regular members of the Zoning Board of Appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest.

2. The alternate member having been appointed shall serve on the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

B. Vacancies. Any vacancies on the Zoning Board of Appeals shall be filled by appointment by the Township Board. The appointed member shall serve out the term of the vacated position.

C. Elections. The Zoning Board of Appeals shall annually elect its own Chairperson, Vice Chairperson, and Secretary. A member of the Township Board shall not serve as Chairperson of said Zoning Board of Appeals.

D. Meetings.

1. The Zoning Board of Appeals shall meet once each month at dates determined unless no business is pending for the scheduled meeting. Special meetings may be held at the call of and at such time as the Chairperson or two members may determine. At a minimum, the Zoning Board of Appeals shall meet at least twice each calendar year.

2. The Secretary or his/her designee shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of hearings and other official actions.

3. Three members of the Zoning Board of Appeals shall constitute a quorum for the conduct of its business.

4. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony, and the production of books, papers, files, and other evidence pertinent to the matters before it.

E. Public Hearings. The Zoning Board of Appeals shall make no decision regarding any application until after a public hearing is conducted pursuant to Section 29.03 of this Ordinance.

SECTION 24.01 JURISDICTION AND POWERS

A. The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have the power to act on those matters where this Ordinance provides for an administrative appeal, interpretation, or to authorize a variance as defined in this Section and granted by the Michigan Zoning Enabling Act, as amended.

B. The powers of the Zoning Board of Appeals include:

1. Appeals. Upon request, the Zoning Board of Appeals may hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this Ordinance.

2. Variances. Upon request, a variance from the strict requirements of the Zoning Ordinance may be granted by the Zoning Board of Appeals in accordance with the standards, requirements, and procedures of this Chapter.

3. Zoning Ordinance Interpretation. Upon request, the Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provisions is uncertain.

4. Any other matters referred to them or upon which they are required to consider under the terms of this Ordinance.

C. The Zoning Board of Appeals shall have no authority to consider any appeal from decision related to Planned Unit Developments, Special Land Uses, or Zoning Ordinance amendments.

SECTION 24.02 APPLICATION AND REVIEW PROCEDURES

A. Applications.

1. An application for an appeal may be submitted by a person aggrieved. Such written application shall be submitted to the Township within 21 days of the date of the decision being appealed. The application shall be filed with the Zoning Board of Appeals and shall specify the grounds for the appeal.

2. Variances and other actions requiring a decision by the Zoning Board of Appeals shall be submitted to the Township on a form provided for that purpose and shall include a fee or fees as may be determined by the Township Board from time to time.

3. Applications shall be transmitted to the Zoning Board of Appeals along with all the papers constituting the record upon which the action appealed was taken, and a hearing shall be scheduled in accordance with the procedures of this Chapter.
4. Applications shall not be accepted unless all of the following information is submitted:
    a. A completed application form (provided by the Township);
    b. An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being considered. The Zoning Administrator shall determine the completeness of such plans.
    c. An application fee (and zoning escrow fee where applicable) as may be determined by the Township Board from time to time.
    d. A written explanation from the applicant indicating why the application meets the standards of Section 24.03.
5. An application for an appeal or variance or any other action requiring Board approval shall stay all proceedings in furtherance of the matter to which the application applies unless the Zoning Administrator certifies to the Zoning Board of Appeals, after the application of appeal is filed, that by reason of facts present a would stay, in the opinion of the Zoning Administrator, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court upon application and with due cause shown.

B. Decisions.

1. The concurring vote of a majority of the entire membership of the Zoning Board of Appeals (three votes) shall be necessary to decide in favor of the applicant.
2. All decisions of the Zoning Board of Appeals are final as provided by law.
3. No request which has been denied by the Zoning Board of Appeals shall be submitted for reconsideration within a one year period from the date of the original application unless the Zoning Board of Appeals or the Zoning Administrator finds that at least one of the following conditions exist:
    a. The conditions involving all of the reasons for the original denial have been significantly altered; or
    b. New conditions or circumstances exist that change the nature of the original request.
4. For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:
    a. Description of the applicant's request;
    b. The Zoning Board of Appeals' motion and vote, including written justification for the decision in accordance with each of the standards of Section 24.03;

c. A summary or transcription of all competent material and evidence presented at the hearing; and

d. Any conditions attached to an approved decision.

C. Appeals.

1. The decision of the Zoning Board of Appeals shall be final. However, an aggrieved party may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Michigan Zoning Enabling Act. The Court may affirm, reverse or modify the decision of the Zoning Board of Appeals or may remand the decision to the Zoning Board of Appeals for further hearings or action.

SECTION 24.03 VARIANCE REVIEW STANDARDS

A. The Zoning Board of Appeals, after a public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or undue hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures or of uses so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done.

B. Non-Use Variance. A non-use variance may be approved by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following standards are met:

1. There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District. Exceptional or extraordinary circumstances or conditions include:

a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter; or

b. By reason of exceptional topographic conditions or other extraordinary situation on the land, building, or structure; or

c. By reason of the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties.

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same Zoning District and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
5. The variance will not impair the intent and purpose of this Ordinance.
6. The practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.
7. The variance request is reasonable.
8. The variance request made is the least modification of the Ordinance provision necessary to grant appropriate relief.

C. Use Variances. Subject to other provisions of this Ordinance, the Zoning Board of Appeals shall have the jurisdiction to decide applications for use variances. The Zoning Board of Appeals shall not grant a use variance unless it finds that unnecessary hardship will occur unless the variance is granted. Additionally, the Zoning Board of Appeals shall not grant a use variance unless it also finds that all of the following standards below are met:

1. The variance request, if granted, will be the minimum variance (i.e., the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.
2. The granting of the variance will not be injurious or detrimental to neighboring properties or residents.
3. The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.
4. The variance will not impair the intent or purpose of this Ordinance.
5. The problem or condition for which the variance is requested is not a self-created problem by the applicant or property owner (or their predecessors in title) as to the property involved.
6. The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the Township to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.
7. There are exceptional, unique, or extraordinary physical conditions or circumstances that directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem or exception or extraordinary circumstances or conditions must be inherent in the land, structure, or building involved.
8. The variance must be necessary for the preservation and enjoyment of a substantial property right, which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE-a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)
9. The property cannot be reasonably used as currently zoned.

10. As specified above, the Zoning Board of Appeals must also find that unnecessary hardship will occur if a use variance is not granted.

No use variance shall be granted unless at least two-thirds (2/3) of all members of the Zoning Board of Appeals vote in favor of such use variance. Furthermore, before the members of the Zoning Board of Appeals may vote on a given use variance request, the matter shall be referred to the Planning Commission. The Planning Commission shall be asked for its recommendation regarding the proposed use variance request. The Zoning Board of Appeals may take final action regarding such a use variance request once the Planning Commission has forwarded its recommendation on the particular use variance request to the Zoning Board of Appeals or 45 days has elapsed since the referral to the Planning Commission, whichever occurs first.

D. Period of Validity. No variance granted by the Zoning Board of Appeals shall be valid for a period longer than 24 months from the date of its issuance unless the construction and/or use associated with said variance is completed or has been started with completion being diligently pursued. However, the applicant may, upon application, request up to one six-month extension of said variance. The Zoning Administrator may grant such extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant. The Zoning Administrator may refer any request for an extension to the Zoning Board of Appeals for a decision.

SECTION 24.04 CONDITIONS OF APPROVAL

A. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.

B. Conditions imposed shall be those necessary to ensure that the decision meets the standards of this Chapter.

SECTION 24.05 RULES OF PROCEDURE

A. The Zoning Board of Appeals may adopt rules and regulations for the conduct of its meetings. The Zoning Board of Appeals shall annually elect from its membership a Chairperson, Vice-Chairperson, Secretary, and other officers as deemed necessary. The Zoning Board of Appeals shall not conduct business unless a majority of its members are present.

B. The regular place and time of meetings of the Zoning Board of Appeals may be established by the Zoning Board of Appeals in its rules and regulations. Except as otherwise specified in the rules and regulations of the Zoning Board of Appeals, the procedure in meetings of the Zoning Board of Appeals shall be governed by Robert's Rules of Order.

C. Minutes of proceedings shall be kept for all Zoning Board of Appeals meetings. These minutes shall list the members absent and present and shall show the action taken by the Zoning Board of Appeals, as well as the vote of each member upon each matter presented to the Zoning Board of Appeals.

SECTION 24.06 CONFLICT OF INTEREST

A. A member of the Zoning Board of Appeals shall not participate or vote with respect to a matter in which the member has a conflict of interest. Failure of a member to refrain from participating or voting in a matter in which the member has a known conflict of interest shall constitute misconduct in office. A conflict of interest exists whenever a member of the Zoning Board of Appeals owns land within the Township, which is significantly affected by a matter presented to the Zoning Board of Appeals, or a member has a direct financial interest in the matter presented to the Zoning Board of Appeals. A conflict of interest may exist in other circumstances as well.

B. The members of the Zoning Board of Appeals should strive to avoid even the appearance of impropriety. Whenever a member of the Zoning Board of Appeals has a conflict of interest or appears to have a conflict of interest with respect to a matter presented to the Zoning Board of Appeals, the member shall state on the record the nature of the conflict of interest, or the circumstances that exist that could be perceived to be a conflict of interest. If the member has a conflict of interest, the member shall not participate in the Zoning Board of Appeals' consideration of the matter. If circumstances exist which could be perceived to be a conflict of interest, the member, after disclosure of these circumstances, may continue to participate in the Zoning Board of Appeals' consideration of the matter if the member can be fair, objective and impartial, subject to the vote of the other members of the Zoning Board of Appeals.

C. Nondisclosure of a known conflict of interest shall constitute misconduct in office, and nondisclosure of circumstances that exist which could be perceived to be a conflict of interest may also constitute misconduct in office.

D. If a member of the Zoning Board of Appeals fails to disclose any circumstances which could be perceived to be a conflict of interest and the Zoning Board of Appeals later becomes aware of such circumstances, or if a member of the Zoning Board of Appeals participates in the consideration of a matter in which the member has a known conflict of interest, the Zoning Board of Appeals may, upon the vote of a majority of the regular members of the Zoning Board of Appeals (other than the member who has failed to make the disclosure or who participated in the consideration of a matter in which the member had a conflict of interest), the Zoning Board of Appeals may make a recommendation to the Township Board that the member be removed from the Zoning Board of Appeals for misconduct in office. If the Zoning Board of Appeals makes such a recommendation to the Township Board, the Township Board shall hold a public hearing to consider the recommendation.

SECTION 24.07 NO ADVISORY OPINIONS

The Zoning Board of Appeals shall not give advisory, informal, or hypothetical opinions or decisions.

Chapter 25, Driveways and Private Roads

SECTION 25.00 PURPOSE

The purpose of this Chapter is to provide minimum standards and specifications for private driveways and private roads constructed in Eureka Charter Township. It is recognized that such standards are necessary because of the need for road services adequate to provide year-round access by residents as well as access by fire, police, and other emergency services. It is further recognized that if roads are not constructed and maintained in accordance with certain minimum standards, such roads may pose a threat to the health, safety, and welfare of the residents located along the roadway and others who use the road. Therefore, it is the intent of this Chapter to provide safe passage and maneuverability of vehicles, support long-term use of roads through suitable construction, and promote construction that will protect against soil erosion and damage to lakes, streams, wetlands, and the natural environment.

SECTION 25.01 PRE-EXISTING/NON-CONFORMING DRIVEWAYS AND ROADS

Non-conforming private driveways or private roads lawfully in existence prior to the enactment of this Ordinance may continue without conforming to the requirements of this Ordinance, provided, however, that if such private road or access easement is to be expanded, constructed, or altered, including but not limited to the servicing of additional lots or commercial, industrial, or other units, then the entire driveway or road must be brought into compliance with the requirements of this Ordinance without regard to its pre-existing status.

SECTION 25.02 GENERAL REQUIREMENTS

The following standards shall apply to all land which is divided into parcels or lots:

A. No driveway or private road shall be constructed or used within the Township unless it is in full compliance with the requirements of this Ordinance.

B. No Certificate of Occupancy for any structure or building shall be issued by the Township unless the parcel or lot fronts on a private road, improved to the standards of this Ordinance, or on a public road. Each lot or parcel shall have road frontage equal to the minimum lot width specified by the applicable provisions of this Ordinance.

C. Private driveways and private roads shall not be dedicated to the Township.

D. Private driveways and private roads shall not be maintained by the Township except pursuant to a lawfully-established special assessment district.

E. Prior to the construction of any private road or any driveway serving commercial, industrial, or agricultural facilities, plans shall be reviewed and approved by the Township Planning Commission and the Road Commission for Montcalm County.

SECTION 25.03 MINIMUM STANDARDS FOR DRIVEWAYS

Private driveways shall meet all of the following minimum standards:

A. All trees and brush shall be cleared for a minimum width of 14 feet for the full length of the driveway.

B. All topsoil, stumps, and unstable soil shall be removed and back-filled with engineered sand fill and compacted. The driveway shall be surfaced and maintained with gravel, crushed limestone, finely-crushed concrete, or similar material for a minimum width of 10 feet and a minimum depth of four inches for the full length of the driveway. At the garage entrance, an apron at least four feet in length shall be constructed of concrete, at least four inches deep, or asphalt, at least three inches deep, and at least as wide as the garage door(s).

C. The surface of the driveway shall be properly drained so that water damage and frost heave will not impede access by emergency vehicles.

D. The driveway shall provide a minimum centerline radius of 40 feet for all curves to ensure access by fire-fighting equipment. In addition, the driveway shall provide minimum clearance from trees and brush of 18 feet in all curved sections.

E. No bridges shall be permitted as part of driveway construction unless they are certified by a registered engineer as capable of supporting a 30-ton fire truck.

F. Any structures that span a driveway shall maintain not less than 14 feet vertical and horizontal clearance.

G. A culvert, 12-inch minimum diameter and 24 feet in length, shall be provided where a driveway crosses the ditch centerline. A minimum of 18 feet shall be covered with gravel or similar material with an equal amount of uncovered culvert on each side.

H. A private driveway shall serve only one property.

I. Driveway openings shall be reviewed and approved by the Zoning Administrator and Road Commission for Montcalm County prior to their placement and shall be placed in such a location to maximize vehicular and pedestrian visibility and safety.

SECTION 25.04 PRIVATE ROAD CONSTRUCTION PERMIT

A. No private road shall be constructed, extended, used or relocated unless a private road construction permit application has been received and approval obtained pursuant to this Chapter. Private road construction permits require special land use approval from the Planning Commission.

B. Applications for a private road construction permit shall be submitted to the Eureka Charter Township Planning Commission for special land use review and approval. Materials to be submitted shall contain, at a minimum, the following information:

1. A completed permit application form containing the name(s) of the owner(s) and any other parties having any legal interest in the proposed private road, the property on which it is to be constructed, and payment of any fees established by the Township Board.

2. A legal description and survey of all properties to be served by the private road prepared by a Michigan registered and licensed land surveyor, together with a letter from the Township Zoning Administrator stating that all proposed parcels comply with the Township Zoning Ordinance.

3. A legal description and survey of the proposed private road easement prepared by a Michigan registered and licensed land surveyor.
4. Ten copies and a PDF of a scaled drawing, prepared by a Michigan registered and licensed engineer, showing the following:
    a. The exterior boundaries of the lot(s) or parcel(s) on which the private road will be constructed;
    b. Existing and proposed structures, roads, drives, drains, and other significant physical features on the property;
    c. Engineering plans for the proposed road in compliance with the Road Commission for Montcalm County Standards, Guidelines, and Policies for Private Roads.
    d. Construction plans including a drawing of typical cross-sections, layout, grade, elevation, dimensions, and design of the private road right-of-way and roadway, including the proposed ingress and egress from the adjoining public street/road;
    e. A stormwater management plan for water runoff from the private road and drainage layout;
    f. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable, to be located within the private road easement or within 20 feet either side thereof. Copies of the documents describing and granting such easements shall be submitted with the application;
    g. The proposed layout and location of all lots to be served by the proposed private road;
    h. The location of any other existing or proposed buildings or structures within 100 feet of the private road right-of-way;
    i. The location of any lakes, streams, wetlands, drains, septic systems, or private sewer systems within 100 feet of the private road right-of-way;
    j. The location of all existing buildings or structures to be served by the private road.
5. A private road maintenance agreement acceptable to and approved by the Township Attorney that shall:
    a. Detail construction, maintenance, snow plowing, and repair duties;
    b. Establish proportionate cost-sharing;
    c. Designate responsibilities of current and future owners of benefit properties, including the authority to apportion, collect, and secure said construction, maintenance, and repairs;
    d. Contain a provision for noninterference, so owners of lots cannot prohibit, restrict, limit, or interfere with normal ingress/egress or other uses of the private road;
    e. Contain a provision that all owners of lots with an interest in the private road shall indemnify the Township from any liability whatsoever arising from the purchasing, planning, constructing, inspecting, repairing, maintaining, using, and dedicating of the private road. A letter from the Township attorney may company this document indicating that the agreement

complies with this Ordinance; and

f. Be executed and recorded with the Montcalm County Register of Deeds before the private road is constructed and also provided to each lot purchaser.

C. The permit application, drawings, and other required information shall be forwarded to the Planning Commission, upon review by the Zoning Administrator, to determine compliance with the standards of this chapter and the Site Plan Review standards of Section 4.04. The Planning Commission shall conduct a public hearing with notice provided pursuant to Section 29.03 of this Ordinance.

D. The Planning Commission shall review the application and may consult with the Township Zoning Administrator, Fire Chief, Attorney, Engineer, Planner, and others deemed necessary.

E. The Planning Commission shall approve or deny a permit for the private road within a reasonable time after receiving all requested information from the applicant and all desired recommendations (e.g. from Planner, Fire Chief, Attorney, etc.).

F. If the Planning Commission finds that the application meets the requirements of this Chapter, Chapter 19, and the review site plan standards of Section 4.04, it shall approve the private road and direct the Zoning Administrator to issue a permit for the construction of the private road. This permit shall be signed by the Zoning Administrator and contain the date of approval and any conditions imposed by the Planning Commission.

G. Two (2) copies of the private road plans shall be stamped for approval; one (1) copy shall be kept by the applicant, and one (1) by the Township. A permit for a private road does not authorize the construction of any building on any lot accessed by the private road. The permit is valid for a period of one (1) year from the date of approval. If the construction of the private road has not commenced before this date, the permit shall expire, and a new permit shall be required following the same procedure.

SECTION 25.05 MINIMUM STANDARDS FOR PRIVATE ROADS

All private roads shall be constructed in accordance with the Road Commission for Montcalm County Standards, Guidelines, and Policies for Private Roads and shall comply with all requirements of the Montcalm County Drain Commissioner, EGLE, any other state or local requirements, and shall meet the following minimum standards:

A. Private roads shall not require paving unless the road serves four (4) or more parcels. However, all private roads shall meet all other requirements as identified in the Road Commission for Montcalm County Standards, Guidelines, and Policies for Private Roads.

B. After review and approval by the Planning Commission, proposed construction specifications shall be submitted to the Montcalm County Official for review and approval prior to the issuance of a Private Road Construction Permit. The Building Official may refer construction specifications to the Township Engineer prior to approval.

C. The Township may condition the issuance of a private road construction permit on the submission and Township approval of an application for land division, lot line adjustment, subdivision approval, or site condominium approval.

D. All private roads shall be designated by name, subject to the approval of the Township Planning Commission and the Road Commission for Montcalm County, and consistent with the standards of the Montcalm County Addressing Ordinance. Street signs shall be installed in accordance with the standards and approval of the Montcalm County Addressing Ordinance. Signs marked "Private Road" shall be erected and maintained by the proprietor at the entrance to all private roads of the development. The proprietor shall furnish and erect street name and stop signs at all intersections with both public and private roads. The design of all signs shall be the same as those used by the Road Commission for Montcalm County for similar purposes.

E. The applicant's engineer, or the Road Commission for Montcalm County's field engineer, shall certify (and supply the written certification to the Township) that they have personally supervised and inspected all construction, that drainage facilities have been installed, that all roads have been built in accordance with approved plans and specifications. If necessary, the Township Engineer may supervise and inspect the construction of the private road to ensure that drainage facilities have been installed, that all roads have been built in accordance with approved plans and specifications.

Chapter 26, Wind Energy Systems

SECTION 26.00 DESCRIPTION AND PURPOSE

A. The purpose of this Chapter is to establish guidelines for installing and using Wind Energy System (WES) in Eureka Charter Township. The purpose of this chapter is:

1. To promote the safe, effective, and efficient use of a WES to reduce the consumption of fossil fuels in producing electricity.
2. To preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of a WES.
3. To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of a WES shall be governed.

SECTION 26.01 DEFINITIONS

A. Ambient Sound Level: The amount of background noise at a given location prior to the installation of a WES which may include, but not be limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB (A) weighted scale as defined by the American National Standards Institute.

B. Anemometer: A wind speed indicator constructed at a given site including the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow or to characterize the wind resource at a given location. Typically, anemometers are used to analyze the potential for the generation of electrical energy by measuring wind speed, direction, and duration.

C. Anemometer Tower: Means a freestanding tower, containing instrumentation such as anemometers, designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a Wind Energy System.

D. Decibel: The unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB (A) weighted scale as defined by the American National Standards Institute.

E. Decommissioning: The process of terminating operation and completely removing a WES and all related buildings, structures, foundations, access roads, and equipment.

F. IEC: Means the International Electrotechnical Commission.

G. ISO: Means the International Organization for Standardization.

H. Large Wind Energy System(s) (LWES): A tower-mounted WES that converts wind energy into electricity. The LWES has a nameplate capacity that identifies the maximum kilowatts as exceeding 100 kilowatts and the total height of a LWES exceeds 60 feet, and is primarily used to provide on-grid electrical production.

I. Lease Unit Boundary: A boundary around property leased for purposes of a WES including parcels adjacent to the parcel on which the WES tower or equipment is located. For purposes of setback, the lease unit boundary shall not cross road rights-of-way.

J. Nacelle: The encasement that houses all of the generating components, gearbox, drive train, and other equipment.

K. Net-Metering: A special metering and billing agreement between utility companies and their customers that facilitates the connection of renewable energy generating systems to the power grid.

L. Occupied Building: A residence, school, hospital, church, public library, business, or other building used for public gatherings.

M. Operator: The entity responsible for the day-to-day operation and maintenance of a WES.

N. Owner: The individual or entity, including respective successors and assigns, which has an equity interest or owns the WES.

O. Participating Parcel: A parcel of real property which is under lease or other property agreement with a utility grid wind energy system owner/operator.

P. Rotor: An element of a WES that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

Q. Shadow Flicker: The moving shadow, created by the sun shining through the rotating blades of a WES.

R. Small Wind Energy System(s) (SWES): A structure or tower-mounted SWES has a nameplate capacity that does not exceed 100 kilowatts, and the total height does not exceed 60 feet.

S. Sound Pressure: An average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

T. Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

U. Structure: Any building or other structure that is a minimum of 12 feet high at its highest point of roof and is secured to frost footings or a concrete slab.

V. Total Height: The vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the WES or Anemometer.

W. Tower: A freestanding support on which a WES is mounted.

X. Utility Grid Wind Energy System: An electricity generating facility consisting of one or more wind turbines under common ownership or operation control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, located on private land which is under lease or other property agreement with a utility grid wind energy system owner/operator, whose main purpose is to supply electricity to off-site customers(s). It includes substations, MET towers, cables, wires, and other buildings accessory to such facility.

Y. Wind Energy System (WES): Any WES that converts wind energy into electricity through the use of equipment that includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system.

SECTION 26.02 APPLICABILITY

A. This Chapter applies to all WESs proposed to be constructed or modified after the effective date of adoption of this Ordinance.

B. All WESs constructed prior to the adoption of this Chapter shall not be required to meet the requirements herein; however, any physical modification to an existing WES that materially alters the size, type, equipment, or location shall require approval under this Chapter.

SECTION 26.03 TEMPORARY ANEMOMETER USAGE

Anemometers shall be permitted in all zoning districts as a temporary use, subject to the following:

A. An anemometer shall be allowed for no more than 18 months for a SWES, and no more than three years for a LWES.

B. The construction, installation, or modification of an anemometer tower shall require zoning, building, and electrical permits and shall conform to all applicable local, state, and federal safety, construction, environmental, electrical, communications, and Federal Aviation Administration (FAA) requirements.

C. An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety requirements, and decommissioning that correspond to the size of the WES that is proposed to be constructed on the site.

D. Every anemometer must be approved by the Planning Commission as a special land use.

SECTION 26.04 GENERAL STANDARDS FOR ALL WESs

Following are general standards required for all WESs constructed in Eureka Charter Township.

A. Appearance: A WES, including accessory buildings and related structures, shall be a non-reflective, non-obtrusive color (white, gray, black). The appearance of the turbine tower and any ancillary facility shall be maintained throughout the life of the WES.

B. Siting: A Zoning Permit is required for all WES installations. All LWESs and utility grid WESs shall be subject to Special Land Use review and approval by the Eureka Charter Township Planning Commission.

C. Permits and Approvals: If a Zoning Permit is obtained for a WES, a building permit is required for the structure and tower, and an electrical permit, along with all other required permits and approvals, are required for installation of the WES.

D. Lighting: WES shall not be artificially lighted except to the extent required by the FAA or other applicable authority, and FAA required lighting shall use ADLS (Aircraft Detection Lighting Systems).

E. Advertising, Adornment, or Decoration: WES shall not be used for displaying any advertising including

flags, streamers, or decorative items except for the identification of the turbine manufacturer.

F. Noise: The sound pressure level shall not exceed 50 dB (A) Lmax during daytime hours and 45 dB (A) Lmax during nighttime hours measured at the property lines or the lease unit boundary, whichever is farther from the source of the noise. If the ambient sound pressure level exceeds 50 dB (A) Lmax during daytime hours and 45 dB (A) during nighttime hours, the standard shall be ambient dB (A) plus 5 dB (A).

G. Vibration: Vibrations shall not be produced that are humanly perceptible beyond the property lines or Lease Unit Boundary where the WES is located.

H. Quantity: No more than one WES tower shall be installed on a primary residence. Commercial and Industrial buildings in excess of 10,000 sq. ft. may have more than one WES tower installed on the building if all setback requirements are met. The number of roof-mounted systems shall be based on manufacturer recommendations and industry and building code standards.

I. Separation: If more than one WES is installed on a parcel, a distance equal to the height of the highest WES must be maintained between the bases of each WES, and all other setback requirements shall also be met.

J. Electrical System: All electrical controls, control wiring, grounding wires, power lines and system components shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable.

K. Public Utility Connection: If the WES is connected to a public utility it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standard applicable to wend power generation facilities, and the connection shall be inspected by the appropriate public utility.

L. Safety: All wind turbines shall be equipped with manual and automatic overspeed controls to limit rotation of blades to speed below the designed limits of the wind turbine. The certified registered engineer and authorized factory representative shall certify that the rotor and overspeed control design and fabrication conform to current engineering practices at the time of application. No changes or alterations from certified design shall be permitted unless accompanied by a certified registered engineer's and the authorized factory representative's statement of certification.

M. Signage: A clearly visible warning sign regarding voltage shall be placed at the base of the WES.

N. Structural Integrity: The structural integrity of each WES shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" and/or IEC 61- 4000-2, "Small Wind Turbine Safety", IEC 61400-22, "Wind Turbine Certification" and IEC 61400-23, "Blade Structural Testing" or any similar successor standards. Engineering data concerning construction of the tower base must be submitted with an application and site plan. The base of the wind turbine must be constructed in such a manner that upon removal of said tower, the soil will be restored to its original condition to a depth of 4 feet.

O. Signal Interference: The WES shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.

P. Decommissioning: The WES Owner(s) or Operator(s) shall complete decommissioning within one year after the end of the useful life or abandonment, whichever occurs first. Upon request of the Owner(s) or assigns of, and for good cause, the Planning Commission may grant a reasonable extension of time. The WES will presume to be at the end of its useful life if no electricity is generated for a continuous period of one year. All decommissioning expenses are the responsibility of the Owner(s) and/or Operator(s).

Q. Responsibility: The landowner shall be jointly and severably responsible with the owner for complying with the requirements of this Chapter.

SECTION 26.05 SMALL WIND ENERGY SYSTEM REQUIREMENTS (SWES)

The following are required for the installation of a SWES designed to primarily serve the needs of a home, farm, or small business.

A. Setbacks:

1. Each Anemometer and SWES Tower shall comply with the following setback requirements.

    a. The minimum setback for each Anemometer and SWES Tower to each existing structure, road right-of-way, property line, or utility line, except for those utility lines servicing the SWES, shall be specified in the Eureka Charter Township Zoning Ordinance or the Total height of the Tower, whichever is greater.

    b. No Anemometer or SWES Tower shall be constructed closer to a Lease Unit Boundary than the Total Height of the Tower.

    c. Setbacks from common property lines within a Lease Unit Boundary shall be waived.

2. Exterior structures and equipment part of the SWES shall comply with accessory structure setback requirements for each zoning district.

B. Zoning Districts: SWES are allowed in all zoning districts except Manufactured Home Park Residential Districts (MHR).

C. Tower Height: Small WES and Anemometer installations shall have a tower height of 60 feet or less measuring from grade to the highest vertical point of the turbine blade.

D. Electrical Capacity: Small WES shall have a rated nameplate capacity of 100 Kilowatts or less.

E. Access:

1. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

2. The tower shall be designed and installed without step bolts, a ladder, etc. to prevent access to the public for a minimum height of 8 feet above the ground.

F. Shadow Flicker: SWES shall not be placed where shadow flicker disrupts a neighboring primary residence.

G. Construction Codes, Towers, and Interconnection Standards: SWES, including towers, shall obtain all

required permits and comply with all applicable state and local construction, electrical, building, and zoning requirements and standards.

H. Interconnection: An interconnected SWES shall comply with the Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

SECTION 26.06 LARGE WIND ENERGY SYSTEMS (LWES)

On-site WESs over 60 feet tall or with an electrical capacity exceeding 100 kilowatts of power shall only be approved as a special land use and must meet all of the following additional standards. For LWESs within a utility grid WES, the provisions of Section 26.07 shall also apply.

A. Zoning Districts: LWES are allowed in the AG and RR districts only provided that they can meet all other requirement of this Ordinance. LWES are allowed only with Special Land Use approval.

B. Special Land Use Permit: A Special Land Use Permit application shall be filed with the Zoning Administrator and approved by the Planning Commission prior to any physical activity to install a LWES. In addition to the submittal requirements for Site Plan Review and Special Land Use approval specified in this Ordinance, the following additional information shall be submitted with an application for a LWES:

1. Documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have been reviewed and the submitted site plan is prepared to show compliance with these issues.
2. Proof of the applicant's public liability insurance for the project.
3. A copy of the portion of all the applicant's lease(s) with the land owner(s) granting authority to install the anemometer tower and/or utility grid WES; legal description of the property(ies), lease unit(s); and the site plan shows the boundaries of the leases as well as the boundaries of the Lease Unit Boundary.
4. The phases or parts of construction with a construction schedule.
5. The project area boundaries.
6. The location, height, and dimensions of all existing and proposed structures and fencing.
7. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state road.
8. All new infrastructure above ground related to the project.
9. A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
10. Lease unit boundaries encompassing more than one parcel must be approved by the Planning Commission.

C. Standards. In addition to the other requirements and standards of Section 26.06, the Planning Commission shall not approve a Special Land Use for a WES (or a modification to an existing WES special land use approval) unless all of the standards for a site plan contained in Section 4.05 of this Ordinance and all of the standards for a Special Land Use contained in Subsection 19.02 of this Ordinance are met, and that all of the following additional standards are also met:

1. If there are existing or proposed multiple WES within one (1) mile of one another, the WES shall not unreasonably visually dominate the skyline or horizon.
2. The presence of one or more WES shall not substantially change the aesthetic views and visual horizon of the area.
3. The WES shall not substantially decrease the fair market value of any parcels or lots located within 2 miles of the location of the WES. There is a presumption that this standard will not be met if the fair market value of any lot or parcel within 2 miles of the WES (except for the lot or parcel upon which the WES is located) would decrease in fair market value by more than 10% due to the presence of the WES.
4. The presence of one or more WES would not reasonably distract drivers and vehicles traveling on adjacent or nearby public roads, especially at night with the lights of the WES.
5. The WES will not change the essential character of the area or neighborhood where the WES would be located.
6. The WES location and use shall be reasonable.

D. Setbacks:

1. Each Anemometer and LWES Tower shall comply with all of the following setback requirements:
   a. The minimum setback from each Anemometer and LWES Tower to any habitable structure, road right –of-way, property line, or utility line not servicing the LWES shall be at least four times the total height of the tower.
   b. No Anemometer or LWES Tower shall be constructed closer to a Lease Unit Boundary than four times the total height of the tower.
   c. Setbacks from common property lines within a Lease Unit Boundary shall be waived.
2. All operations and maintenance buildings, substations, and ancillary equipment shall comply with setback requirements as specified in the Eureka Township Zoning Ordinance.
3. Overhead transmission lines and power poles shall be constructed in compliance with the setback and placement requirements applicable to public utilities.

E. The applicant is responsible for any and all repair costs associated with damage to public roads as the result of the installation, maintenance, and /or decommissioning of the LWES.

F. In approving any LWES, the Township may require a performance guarantee pursuant to Section 29.06 of this Ordinance.

G. The maximum height of any WES shall not exceed 300 feet. The Planning Commission may modify this requirement at the request of the applicant if reasonably justified by information provided by the applicant to the Township. In addition, the Planning Commission may require that a WES be less than 300 feet tall if such lesser height is required because:

1. A taller WES would have substantial negative esthetic and horizon sight line impacts;
2. The topography in the area is not consistent with a taller WES;
3. The taller height would make the WES more distracting to motorists on nearby or area public roads; or
4. The taller height of the WES would cause the WES to dominate the air space and visual appearance of a nearby dwelling or dwellings.

H. The turbine nacelle unit shall have an operating automatic fire detecting and suppression system.

I. The WES shall have an operating de-icing system such as hot airflow built into the blades, ice sensors mounted on the nacelle and heating devices in the blades, anti-icing paint formulated to prevent formation of ice on blades, or similar systems to prevent icing and ice-throws.

SECTION 26.07 UTILITY GRID WIND ENERGY SYSTEMS

A. Zoning Districts: Utility grid WESs are allowed in the AG and RR districts only, provided they meet all other requirements of this Ordinance and obtain Special Land Use approval.

B. Special Use Permit: A Special Land Use Permit application shall be filed with the Zoning Administrator and approved by the Planning Commission prior to the construction of a utility grid WES. Since a utility-grade WES usually contains several LWESs, separate special land use applications for each LWES shall not be required; rather, one special land use application for the entire utility grid WES project (or that portion of the utility grid WES project within Eureka Charter Township) shall be required. In addition to the standards contained in this Section, the provisions of Sections 26.06C and 26.06G shall also apply to towers proposed together as a utility grid WES.

C. Required Materials. In addition to the submittal requirements for Site Plan Review and Special Land Use approval specified in this Ordinance, the following additional information shall be submitted with an application for a utility grid WES:

1. A noise modeling and analysis report with the site plan showing location of equipment identified as a source of noise that is placed, based on the analysis, so that the wind energy system will not exceed the maximum permitted sound pressure levels. The noise modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the utility grid WES, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18, at the owner or operator's expense. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the Zoning Administrator within 60 days of the commercial operation of the project.

2. A visual impact simulation showing the completed site as proposed on the submitted site plan. The visual impact simulation shall be from four viewable angles.
3. An Environment Analysis by a third party qualified licensed professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
4. An Avian and Wildlife Impact Analysis by a third-party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state-listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract a large number of birds of prey. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, birds of prey, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the Federal Endangered Species Act and Michigan's Endangered Species Protection Law. The analysis shall indicate whether a post-construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted.
5. A copy of a shadow flicker analysis at occupied structures to identify the location of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the occupants of the structures and show measures that shall be taken to eliminate or mitigate the problem.
6. A decommissioning plan that shows the restoration plan for the site after completion of the project that includes the following supporting documentation:
    a. The anticipated life of the project.
    b. The estimated decommissioning cost net of salvage value in current dollars.
    c. The method of ensuring that funds will be available for decommissioning and restoration.
    d. The anticipated manner in which the project will be decommissioned and the site restored.
7. A description of the complaint resolution process developed by the applicant to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the Township from acting on a complaint. During

construction, the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

D. Performance and Operational Standards. A utility grid WES shall meet all of the following performance and operational requirements:

1. A utility grid WES shall be maintained and kept in operational working order or shall be removed by the owner of the utility grid wind energy system.

2. The utility grid WES owner or operator shall provide the Township Zoning Administrator with a copy of maintenance inspection records and logs.

3. If there is a mechanical failure resulting in an abnormal sound emission, release of a pollutant, or a public safety hazard, the Zoning Administrator shall be notified of the event the next day of business following the event. The applicant shall provide the Township at the time of application an operational procedure for this event, a mitigation strategy, and appropriate emergency contact information. A written report describing the failure and the owner's response to the failure shall be submitted to the Zoning Administrator within 10 business days of the event. Sound emitted from a wind turbine generator that is the result of a mechanical failure or lack of maintenance may not be subject to the complaint resolution procedure outlined in this Section. Emergency contact information and a turbine reference number shall be placed in an appropriate location near the site of the turbine, such as at the gate for the access road, so it can be viewed without trespassing on private property.

4. The compatibility of the tower structure with the rotors and other components of the conversion systems shall be certified by a certified, registered engineer and by the authorized factory representative.

5. The utilization of roads and the road right of way for the construction of a wind energy system must meet the requirements set forth by the Road Commission for Montcalm County.

6. Through the appropriate placement of wind turbines, the applicant shall design to eliminate any interference such as, but not limited to, internet (Wi-Fi or satellite), AM or FM radio, cell phones, 911, satellite television, emergency systems, and digital television. Post-construction signal interference caused by the wind energy system shall be mitigated by the WES owner at their expense.

7. All wind turbines must be unclimbable by design or protected by anti-climbing devices such as:

   a. Fences with locking portals at least six (6) feet high

   b. Anti-climbing devices twelve (12) feet from the base of pole

8. Shadow Flicker Limits. Shadow flicker shall not be allowed on a non-participating parcel containing an occupied building or dwelling. Shadow flicker is measured at the nearest external wall or walls of an occupied building or dwelling located on a non-participating parcel. If an occupied building or dwelling is built on an non-participating parcel after the issuance of a special land use permit for a utility grid wind energy system and the occupied building or dwelling is in compliance with

the minimum required front, side, and rear yard setbacks then in effect within the zoning district in which the occupied building or dwelling is located, the owner of the wind energy system shall adhere to the above permissible shadow flicker limits.

9. Shadow Flicker Mitigation and Mitigation Plan. A shadow flicker detection/abatement system is required on each wind turbine generator. An equivalent type of system may be used, but only with prior approval by the Planning Commission. Shadow detection systems must be kept in good working order for the entire duration of the special land use. Shadow flicker mitigation measures for each receptor modeled to receive flicker shall be described in a mitigation plan and submitted with the application. Flicker mitigation measures may include but are not limited to, wind turbine siting changes, flicker detection/abatement system operations and procedures, grading, modifications to a dwelling and/or landscaping. If landscaping is used as a mitigation procedure, the planting of mature trees shall be required. The Planning Commission may require a performance guarantee, in the case of landscaping and/or other mitigation measures, to assure the long-term viability and effectiveness of the mitigation.

10. Abandonment. Any utility grid WES or part thereof that reaches its end of useful life shall be deemed to be abandoned; provided, however, that the owner or operator of the WES may apply to the Planning Commission, not less than three months prior to the expiration of said end of useful life period, for one additional extension of up to twelve months upon establishing, to the satisfaction of the Planning Commission, that the lack of production was caused by reasons beyond the control of the owner or operator. In determining whether such abandonment has occurred, the Planning Commission or Zoning Administrator may request, and the operator, system owner, or property owner shall provide written documentation accurately indicating the amount of electrical energy produced by the wind energy system during said end of life period. It shall be the obligation of the utility grid WES owner to remove the abandoned utility grid wind energy system.

    a. To ensure that an abandoned wind energy system is removed, a performance bond or letter of credit, in an amount determined by the Township to be sufficient to cover the entire cost of removal, shall be submitted by the applicant prior to the issuance of the special land use. To assist the Planning Commission in determining the amount of the performance bond or letter of credit, the applicant may submit information regarding the estimated cost to remove a utility grid wind energy system.

    b. The performance bond or letter of credit shall be conditioned upon the timely and faithful performance of the requirements of this ordinance and the special land use. The performance bond or letter of credit shall remain in effect for the duration of the special land use. The amount of the performance bond or letter of credit shall be adjusted at least every three years to reflect changes in the estimated cost of removal, based on the most recent inflation index for the cost of comparable services, as published by the U. S. Bureau of Labor Statistics, or other applicable federal agency or another commonly accepted index.

    c. If the utility grid wind energy system owner fails to remove the wind energy system as required by this Section, then the Township is entitled to use the proceeds from the

performance bond or letter of credit to have the utility grid wind energy system removed. Such removal by the Township shall not relieve the owner of the utility grid wind energy system from its removal obligation.

d. A condition of the performance bond or letter of credit shall be written notification by the issuing company or institution to the Zoning Administrator when the performance bond or letter of credit is about to expire or be terminated.

E. Monitoring and Reporting

1. Bird and Bat Mortality Study. The Planning Commission may require a post-construction bird and bat mortality study completed by a third-party professional selected by the Planning Commission. The timing of such a study shall be specified as a condition of the special land use.

2. Post Construction Sound Survey. Documentation of sound pressure level measurements shall be provided to the Zoning Administrator by a third-party qualified professional selected by the Planning Commission and at the expense of the utility grid WES owner within 12 months of the commencement of the operation of the project. The post-construction study shall be performed at the same locations as the preconstruction study unless additional or alternative locations are required by the Planning Commission. The study should generally follow the procedures in the most recent versions of ANSI S12.9 Part 3 (with an observer present) and ANSI S12.18. All sound pressure levels shall be measured with instruments that meet ANSI or IEC Type 1 Precision integrating sound level meter performance specifications. In addition to measuring A-weighted sound levels, at least one monitoring location shall collect one-third octave band data down to 1 Hertz.

3. Complaint Resolution. The applicant shall submit procedures that it intends to implement for receiving, acting upon, and resolving complaints or allegations that the wind energy system is not in compliance with this ordinance.

   a. Complaint resolution procedures must be presented at the time of application and must meet the approval of the Planning Commission prior to approval of a special land use. Those procedures, at a minimum, shall:

      1) Require the system owner to accept complaints regarding non-compliance with the ordinance from all property owners within the project boundary and up to one-mile radius of a wind turbine generator.

      2) Provide a telephone number and mailing address at which the operator can be contacted for purposes of submitting complaints or allegations of non-compliance.

      3) Require that all such complaints or allegations be submitted in writing.

      4) As a condition of the system owner acting on the complaint, require that a complainant allow the wind energy system owner or designated staff, or other authorized personnel such as an engineer or acoustic professional, on the property of the complainant for further investigation and testing.

5) Set forth information that must be included in the complaint or allegation.

6) Require that a complaint is acknowledged in writing by the wind turbine owner to both the complainant and the Zoning Administrator within five (5) business days of receipt of said complaint.

7) Set forth the number of days, not to exceed thirty (30), in which the operator shall investigate and resolve any and all complaints or allegations, either by way of correction or formal denial of non-compliance.

8) Require the operator to advise the Zoning Administrator in writing of the resolution of any complaint or allegation of non-compliance within thirty (30) days of its receipt of the same.

b. Any complaint not resolved within thirty (30) days shall result in a performance review by the Planning Commission as described in subsection 10 below. Resolution or mitigation of a complaint that involves construction, landscaping, testing, or other significant alteration/operational condition that is dependent on seasonal or other conditions may exceed thirty (30) days if approved by the Planning Commission.

c. It shall be a violation of this ordinance to modify the approved complaint resolution procedures without the prior approval of the Planning Commission.

F. Performance Review. The Planning Commission shall require a performance review of the special land use on a three-year basis or as otherwise required. The three-year time period commences after the first turbine of the wind energy system becomes operational. The Planning Commission shall provide the performance review and the Township shall perform, where reasonably practicable, an investigation regarding a complaint or other matter requiring a performance review. In its sole discretion, the Township may require the assistance of an independent third party due to the specialized nature of the complaint, conflicting evidence, or other condition. The reasonable cost of an independent third-party consultant shall be at the expense of the wind energy system owner. Failure to maintain compliance with all requirements of this section shall result in enforcement action which may include the termination of the special land use, or portions of the special land use. The purpose of the performance review is to evaluate the status of:

1. Compliance with the conditions set forth by the special land use, such as specific mitigation measures or operation procedures, and all other requirements of this Ordinance.

2. Any changes in ownership or operation of the utility grid WES.

3. A significant avian or bat mortality event that exceeds projected impacts described in the Wildlife Study as required by this Ordinance.

4. A complaint taking longer than thirty (30) days to resolve may require a performance review unless otherwise specified. If after the performance review and further investigation, the Planning Commission verifies that alleged ordinance violations are the result of the operation or condition of the wind energy system, the owner/operator shall eliminate the non-compliance by mitigation or other measures which may include temporary operational changes. The Planning Commission

shall establish the effective date of the mitigation measure based on the nature of the mitigation.

5. As a condition of the Planning Commission conducting a performance review, the complainant shall be required to allow Township staff, the wind energy system owner or designated staff, or other authorized personnel such as an engineer or acoustic professional, on the property of the complainant for further investigation and testing.
6. Actions taken by the Planning Commission to terminate or modify the Special Land Use, portions of the Special Land Use, or the conditions of the Special Land Use shall require a public hearing and notification to the utility grid WES owner pursuant to the conditions of the original permit and in accordance with Section 21.06 of this ordinance.
7. Any other matters as determined by the Planning Commission.

Chapter 27, Solar Energy Systems

SECTION 27.00 INTENT AND PURPOSE

This section is intended to promote the use of solar energy within Eureka Charter Township as a clean alternative energy source and to provide for the land development, installation, and construction regulations for solar farm and similar facilities subject to reasonable conditions that will protect the public health, safety, and welfare. These regulations establish minimum requirements and standards for the placement, construction, and modification of photovoltaic solar farm and similar facilities, while promoting a renewable energy source for our community in a safe, effective, and efficient manner.

SECTION 27.01 DEFINITIONS

The following words and terms shall mean the following for purposes of this chapter:

A. Abandonment: To give up, discontinue, or withdraw from. any solar farm that ceases to produce energy on a continuous basis for one year will be considered abandoned.

B. Decommissioning Plan: A document that details the planned shut down or removal of a solar farm from operation or usage, including abandonment as defined in this Ordinance.

C. Fence: A continuous barrier extending from the surface of the ground to a uniform height (to be established through the special use permit process), constructed of steel, or other metal, or any substance of a similar nature and strength.

D. Gate: A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

E. Residential Area: Any area within one quarter (1/4) of a mile of a solar farm having twenty-five or more dwellings.

F. Solar Farm: Land designated or used for the purpose of producing solar or photovoltaic electricity, which includes, but is not limited to, the use of one or more solar panels or other solar energy systems. The power generated is sold or transferred to electric companies or other third parties for distribution through a power grid. A solar farm is comprised of solar panels, photovoltaic cells, or similar facilities that comprise or occupy 20 acres or more on a given parcel or lot.

SECTION 27.02 PROHIBITIONS

It shall be unlawful after the effective date of this Ordinance for any person, firm, corporation, or other legal entity to operate, maintain or establish in any area of Eureka Charter Township a solar farm without special land use approval by the Eureka Charter Township Planning Commission. Modifications to an existing lawful solar farm (which existed as of the effective date of this Ordinance) that increases the area by more than 10% of the original footprint or changes the solar panel type shall be fully subject to this Ordinance.

SECTION 27.03 SOLAR FARM DEVELOPMENT AND DESIGN

A. Special Land Use Required. Solar farms are only allowed within the AR, RR, and the Industrial zoning district and only with special land use approval by the Planning Commission.

B. Minimum Lot Size: Solar farms shall not be constructed on lots or parcels where less than 20 acres can be dedicated to solar energy production.

C. Height Restrictions: All photovoltaic panels located on a solar farm shall be restricted to a height of 14 feet.

D. Setbacks: All photovoltaic solar panels and support structures associated with solar farms (excluding perimeter security fencing) shall be a minimum of 20 feet from any side or rear property line and a minimum of 50 feet from any road or highway right-of-way or easement.

E. Safety/Access: A security fence (with the height and material to be established through the special land use permit process) shall be installed and maintained around the perimeter of the solar farm and electrical equipment shall be locked. Knox boxes and keys shall be provided at locked gated entrances for emergency personnel access.

F. Noise: The noise from a solar farm shall not exceed 50 dB(A) Lmax as measured at any property line.

G. Landscaping: The Planning Commission may alter the landscaping requirement, as outlined in Chapter 22 of this Ordinance, depending upon the topography and existing plant material on the site and proximity to residential housing. Trees shall be a minimum of six (6) feet tall when planted and remain in good condition for the life of the solar farm.

H. Local, State, and Federal Permits: Solar farms shall obtain all necessary state, federal, and local permits, and shall comply with the standards of the State of Michigan adopted codes.

I. Electrical Interconnections: All electrical interconnection or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements. Use of aboveground transmission lines shall be prohibited within the site.

J. If the solar energy facility consists of batteries or the storage of batteries, adequate design and operations must be implemented to ensure that all local, state, and federal requirements regulating outdoor battery storage have been met.

K. Additional Special Land Use Criteria: In addition to the requirements and standards contained in Chapter 16 regarding special land uses in general, no special land use request for a solar farm will be met unless the Planning Commission finds that the following criteria will also be satisfied (and that the following requested items or information is supplied to the Township):

   1. Safety and noise characteristics of the system, including the name and address of the facilities manufacturer and model. Identify the time frame, project life, development phases, likely markets for the generated energy, and possible future expansions

   2. Analysis of on-site traffic: Estimated construction jobs, estimated permanent jobs associated with the development

3. Visual impacts: Review and demonstrate the visual impact using photos or renditions of the project or similar projects with consideration given to tree plantings and setback requirements; Project description and rationale: Identify the type, size, rated power output, performance
4. Wildlife: Review potential impact on wildlife on the site
5. Environmental analysis: Identify impact analysis on the water quality and water supply in the area, and dust from project activities
6. Waste: Identify any solid waste or hazardous waste generated by the project;
7. Lighting: Provide lighting plans showing all lighting within the facility. No light may adversely affect adjacent parcels. All lighting must be shielded from adjoining parcels, and light poles are restricted to 18 feet in height.
8. Transportation plan: Provide access plan during construction and operation phases. Show proposed project service road ingress and egress access onto primary and secondary routes, layout of the plant service road system. Due to infrequent access to such facilities after construction is completed, it is not required to pave or curb solar panel access drives. It will be necessary to pave and curb any driveway and parking lots used for occupied offices that are located on-site.
9. Public safety: Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways, and to the community in general that may be created.
10. Sound limitations and review: Identify noise levels at the property line of the project boundary when completed;
11. Telecommunications interference: Identify electromagnetic fields and communications interference generated by the project.
12. Life of the project and final reclamation: Describe the decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project, including evidence of an agreement with the property owner that ensures proper and environmentally safe final removal of power generating equipment within one year of decommissioning. At a minimum, the decommissioning plan will address and require provisions for removal of all structures (including equipment, fencing, and roads), foundations, and restoration of soil and vegetation to the condition prior to development.
13. A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the Township.
14. An affidavit or evidence of an agreement between the lot owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar energy facility.

SECTION 27.04 PLANNING COMMISSION REVIEW

Because of the ever-changing technical capabilities of photovoltaic solar panels and of new technology in general, the Planning Commission, as part of the special land use review process, shall have the authority to review and consider alternatives in both dimensional requirements as well as physical development requirements found in this Section. However, the Planning Commission shall not have the authority to review or to allow solar farms within any other zoning district.

A. Guarantee required: In approving a solar farm, the Planning Commission may require a guarantee to ensure the proper decommissioning of the site. This security financing will be in a form acceptable to the Township.

SECTION 27.05 BUILDING-MOUNTED SOLAR ENERGY PANELS

A building-mounted solar panel or energy collector shall be a considered an accessory use on buildings in all zoning districts, shall require a Zoning Permit, and is subject to the following requirements:

A. Sketch plan review and approval by the Planning Commission is required of all building-mounted solar energy panels or collectors permitted as an accessory use totaling over 40 square feet on any building.

B. Solar energy panels or collectors that are mounted on the roof of a building shall not project more than five (5) feet above the highest point of the roof but, in any event, shall not exceed the maximum building height limitation for the zoning district in which it is located; and shall not project beyond the eaves of the roof.

C. Solar energy panels or collectors mounted on the roof of a building shall be only of such weight as can safely be supported by the roof. Proof thereof, in the form of certification by a professional engineer or other qualified person, shall be submitted to the Township prior to installation and such certification shall be subject to the Township building official's approval.

D. Solar energy panels or collectors that are roof-mounted, wall-mounted, or are otherwise attached to a building or structure shall be permanently and safely attached to the building or structure. Proof of the safety and reliability of the means of such attachment shall be submitted to the Township prior to installation. Such proof shall be subject to the Township building official's approval and compliance with the National Electrical Code and other applicable codes.

E. Solar energy panels or collectors that are wall-mounted shall not exceed the height of the building wall to which they are attached.

F. Solar energy panels or collectors shall not be mounted on a building wall that is parallel to or visible from an adjacent public right-of-way.

G. The exterior surfaces of solar energy panels or collectors that are mounted on the roof or on a wall of a building, or are otherwise attached to a building or structure, shall be generally neutral in color and substantially non-reflective of light.

H. Solar energy panels or collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy of such directions shall be submitted to the Township prior to installation. The Township building official may inspect the completed installation to verify

compliance with the manufacturer's directions, the National Electrical Code, and any other applicable codes.

I. Solar energy panels or collectors, and the installation and use thereof, shall comply with the Township's construction code, the electrical code, and other applicable Township codes.

SECTION 27.06 GROUND-MOUNTED SOLAR ENERGY PANELS

Ground-mounted solar energy panels or collector system shall be a special land use are subject to all of the following requirements:

A. Ground-mounted solar energy panels or collectors shall be located only in the rear yard and the side yard, but not in the required rear or side yard setback unless permitted by the Planning Commission in its approval of the special land use.

B. They may be located in the front yard only if permitted by the Planning Commission in its approval of the special land use but, in any event, they shall not be located in the required front yard setback.

C. Ground-mounted solar energy panels or collectors shall not exceed 14 feet in height, measured from the ground at the base of such equipment.

D. Solar energy panels or collectors shall be permanently and safely attached to the ground. Proof of the safety and reliability of the means of such attachment shall be submitted to the Township with the special land use application and shall be subject to site plan review.

E. Solar energy panels or collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted to the Township with the special land use application. The special land use, if granted, shall be subject to the Township building official's inspection to determine compliance with the manufacturer's directions.

F. The exterior surfaces of solar energy panels or collectors shall be generally neutral in color and substantially non-reflective of light.

G. Ground-mounted solar energy panels or collectors, and the installation and use thereof, shall comply with the Township's construction code, the electrical code, and other applicable codes.

H. Any special land use approval may include terms and conditions in addition to those stated in this subsection.

Chapter 28, Home-Based Businesses

SECTION 28.00 PURPOSE AND INTENT

Advances in communications and electronics have reduced the need for businesses to be located adjacent to production or population centers. The purpose of this Chapter is to provide for licensing and regulation of certain limited scope commercial businesses conducted for profit outside of Commercial or Industrial Zoning Districts within Eureka Charter Township.

A. The purpose of this Chapter is to provide minimum standards for individuals outside of an Industrial or Commercial Zoning District to enable them to conduct certain limited scope businesses from their residence providing that they do not interfere with the health, safety, and welfare of the community and their neighbors. Eureka Charter Township also recognizes the right of all residents and property owners to be free from actual or potential nuisances that may be caused by non-residential activities conducted outside of an Industrial or Commercial Zoning District.

B. The intent of this Chapter is to provide standards to ensure that home-based businesses are limited in size and scope and are compatible with other permitted uses in that specified zoning district to maintain and preserve the residential character.

C. The intent of Section 28.04 of this ordinance, Medical Marihuana, is to set standards for Eureka Charter Township Residents for the growing, cultivating, and dispensing of Medical Marihuana with Eureka Township as approved by the voters under the Michigan Medical Marihuana Act (MMMA) commonly known as Public Act, Initiated Law 1, MCL 333.26421 which became effective on December 4, 2008.

SECTION 28.01 DEFINITIONS

The following words and terms shall mean the following for purposes of this chapter:

A. Home-Based Business: Includes Type I and Type II businesses that are conducted for profit outside of an Industrial or Commercial Zoning District within Eureka Charter Township and are required to file an IRS Schedule C (profit and loss statement).

B. Type I Business: Any commercial activity operated for profit outside of an Industrial or Commercial Zoning District by family members living in the dwelling unit and conducted as a customary, incidental, accessory use entirely within the residential unit or fully and integrally attached garage.

C. Type II Business: Any commercial activity operated for profit outside of an Industrial or Commercial Zoning District that is conducted in one (1) separate accessory structure. The commercial activity is performed by family members who live in the residential structure on the same lot.

D. Compassion club or Medical Marihuana Dispensary: Any business, facility, association, cooperative, location, or operation whether fixed or mobile, where medical marihuana is made available to, sold, delivered, transmitted, dispensed, or distributed by or to one or more of the following:

   1. A primary caregiver (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 et seq., as amended)

2. A qualifying patient (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 33.26421 et seq., as amended)
3. Members of the general public.

A medical marihuana dispensary (compassion club) shall also include any place, location, facility, or operation, whether fixed or mobile where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana, or where one or more persons are present and smoking or consuming medical marihuana and such medical marihuana smoking or consuming is occurring on the property of a business, association, cooperative, or commercial operation or facility or on a public governmental property. A medical marihuana dispensary, (compassion club) does not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualifying patients (as defined by Michigan Initiated Law I of 2008, as amended (being MCL 333.26421 et seq. as amended), so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and is done in full compliance with not only the Eureka Charter Township.

E. Michigan Medical Marihuana Act. (MMMA): Public Act 2008, Initiated Law I being MCL 333.26421 et seq., as well as any and all amendments thereto and also any legislation enacted into law to implement that statute.

F. Medical Use of Marihuana: Is the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition as defined by the Michigan Medical Marihuana Act (MMMA).

SECTION 28.02 EXEMPTIONS

The following activities are exempt from the requirements of this Chapter.

A. Hobbies and activities operated in a home or accessory building that is not conducted for profit or advertised, and the resident is not required to file an IRS Schedule C (profit and loss statement) for the activity.

B. Farms and Farm Operations, when conducted in compliance with the Michigan Right to Farm Act and also with generally accepted agricultural management practices (GAAMPs).

C. Non-Advertised Multi-Level Marketing Businesses, for example, online-based marketing.

D. The instruction of a fine art or craft pursuant to MCL 125.3204, as amended.

SECTION 28.03 GENERAL STANDARDS FOR HOME-BASED BUSINESSES

The following standards shall apply to all Type I and Type II home-based businesses:

A. The home-based business shall be incidental and subordinate to the principal lawful use of the lot or parcel.

B. The use shall not detract from the residential character or the welfare of the surrounding properties by creating increased noise, septic disposal, well water withdrawal, traffic, lighting, or parking.

C. There shall be no exterior evidence of the home-based business except for a permit required sign conforming to the requirements stated in Chapter 21 of this Ordinance.

D. Delivery or pickup of goods shall not exceed that normally resulting from or associated with residential uses.

E. No machinery, mechanical devices, or equipment that generate noise, vibration, fumes, radiation, odor, glare, smoke, steam, electrical interference, or other conditions that is detectable to the normal senses off-premises and could reasonably result in a nuisance to neighbors will be allowed.

F. The home-based business may increase vehicular traffic flow and parking by no more than two additional vehicles at a time. No more than ten customers or clients shall come to the dwelling unit for services or products during any one day. Parking generated by the conduct of home-based businesses shall be off the street and not in the required front yard.

G. No processes, chemicals, or hazardous materials contrary to state or federal laws shall be used or stored on site.

H. No home-based business will be allowed to operate in or in association with a multi-family dwelling unit.

I. No large equipment (such as excavating or road construction equipment) shall be allowed in any Residential Zoning District, or on Agricultural-zoned parcels of 20 acres or less, for storage or continuous parking.

J. No more than one service truck or two pickup-size vehicles shall be allowed in Suburban Residential or Urban Residential Zoning Districts for storage or continuous parking. No more than two service trucks or four pickup-size vehicles shall be allowed in the Rural Residential Zoning District, or on Agricultural-zoned parcels of 20 acres or less for storage or continuous parking. Vehicles must have a valid license and must be in operable condition.

SECTION 28.04 MEDICAL USE OF MARIHUANA

A. No medical marihuana dispensary (compassion club) shall be commenced, conducted, maintained, operated, or utilized anywhere within Eureka Charter Township or on or from any property, land, building, or structure within and from Eureka Charter Township. Furthermore, no person shall frequent, patronize, or obtain or purchase any marihuana from or through any medical marihuana dispensary with Eureka Charter Township.

B. The primary caregiver may grow and process marihuana in compliance with the Act within the residential dwelling where the primary caregiver lives and is the primary caregiver's residence pursuant to Michigan law. No such residential dwelling of the primary caregiver shall be located within

an apartment building, multi-family residential building, or similar housing building or development, but rather, shall occur only within a detached lawful single-family residential dwelling.

C. No person other than the members of the immediate family of the primary caregiver residing within the residence of that primary caregiver (and no person under 18 years of age) shall be engaged or involved in the growing, processing, dispensing, delivery, or handling of the marihuana.

D. Use of the residential dwelling (which is the residence of the primary caregiver) for marihuana related purposes shall be clearly incidental and subordinate to its use for single family residential purposes. Not more than 25% of the gross finished floor area of the dwelling shall be used for the growing, processing, and handling of the marihuana. No part of an accessory building, detached garage, pole barn, or similar building or structure shall be used for the growing, processing, or distribution of marihuana.

E. No qualifying patient shall visit, come to or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marihuana; rather, the primary caregiver must personally deliver any medical marihuana to a qualifying patient at the residence of that qualifying patient.

F. No person shall deliver marihuana to a qualifying patient other than the primary caregiver for that qualifying patient. The primary caregiver must personally deliver the marihuana to his/her qualifying patient.

G. There shall be no visible change to the outside appearance of the primary caregiver's residence or other visible evidence of the conduct of the medical marihuana operation occurring inside the dwelling.

H. No marihuana, marihuana plants, marihuana paraphernalia, or plant growing apparatus shall be visible from the exterior of the dwelling.

I. No growing, processing, smoking, or use of marihuana shall occur outdoors. All medical marihuana growing, processing, and handling shall occur entirely within the dwelling.

J. No sale or distribution of merchandise or products shall be conducted on, within or from the dwelling or residential premises (including the lot or parcel involved) of the primary caregiver apart from the medical marihuana itself.

K. No equipment or processing shall be used in growing, processing, or handling medical marihuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television or similar receiver off the premises or caused fluctuation of line voltage off the premises. The dwelling of the primary caregiver shall meet all building, housing, fire, and local and state codes and ordinance requirements.

L. The growing, processing, distribution, sale, and handling of medical marihuana shall comply at all times and all circumstances with the Act and any applicable regulations or requirements by the Michigan Department of Community Health or any other Michigan agency.

M. The residence for the primary caregiver shall be located more than 1,000 feet from any school, church, or library as defined by Michigan law to ensure community compliance with federal "Drug-Free School Zone" requirements and to minimize negative impacts.

N. Not more than one (1) primary caregiver shall be permitted to grow, process, or handle medical marihuana at or from a given dwelling unit.

O. All medical marihuana shall be contained within the primary caregiver's residential dwelling (except when being delivered by the primary caregiver to a qualifying patient off-site) and in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver. Any person under eighteen (18) years old shall not have any access to any medical marihuana.

P. No on-site consumption or smoking of marihuana is allowed within the residence (or on the lot or parcel) of a primary caregiver except for any medical marihuana consumption by the primary caregiver himself/herself if he/she is a qualifying patient and in full compliance with the Act.

Q. No medical marihuana shall be grown, processed, or handled at, from or through the residence of the primary caregiver beyond that which is needed or allowed by law (whichever is less) for the qualifying patients of that particular primary caregiver.

R. No sign identifying the dwelling as being a place where medical marihuana is grown, sold, processed, kept, or distributed shall be visible outside of the dwelling or within any of the windows of the dwelling.

SECTION 28.05 TYPE I HOME-BASED BUSINESSES

A. Type I home-based businesses are permitted by right in all Zoning Districts in which single-family dwelling units are a permitted use.

B. Type I home-based businesses shall be operated in their entirety within the dwelling unit or within an integrally attached garage. The space for the home-based business shall not exceed 25% of the total square footage of the principal dwelling unit excluding the size of the garage.

C. Type I home-based businesses shall be conducted only by the person(s) occupying the premises as their principal residence. No more than two non-resident workers will be allowed.

D. Additions to the dwelling unit or integrally attached garage for the purpose of conducting the home-based businesses shall have an architectural style that is compatible with the architecture of the dwelling unit and shall be designed so that the addition can be used for residential purposes if the home-based business is discontinued.

E. No retail sales of merchandise or other products not associated with the business conducted on the premises will be allowed.

F. The outdoor storage or display of goods and/or materials associated with the home-based businesses is prohibited.

SECTION 28.06 TYPE II HOME-BASED BUSINESSES

A. Type II home-based businesses are only allowed in Agricultural, Rural Residential, and Suburban Residential Zoning Districts with special land use approval from the Planning Commission pursuant to Chapter 19 of this Ordinance.

B. Type II home-based businesses shall not be conducted in more than one building. The floor area of the building shall not exceed the required building size restrictions set forth in Section 3.08 of this Ordinance.

C. The building used for the business activity shall not be used for short-term or long-term residential purposes.

D. The outdoor storage of vehicles and/or materials of any kind is prohibited unless screened from view by a tight-board wood fence or landscaped buffer which shall retain the residential character of the neighborhood.

E. Type II home-based businesses shall be conducted only by the person(s) occupying the premises as their principal residence. In addition, no more than two (2) temporary seasonal workers may be allowed for periods of up to 30 days to meet short-term fluctuations in production for one season per year.

F. The approved hours of operation may not exceed 8:00 a.m. to 6:00 p.m.

SECTION 28.07 SIGNAGE

Signage for home-based businesses is permitted pursuant to Section 21.07.01 of this Ordinance.

Chapter 29, Administration and Enforcement

SECTION 29.00 ZONING ADMINISTRATOR

A. Authority. Except where expressly provided otherwise in this Ordinance, the provisions of this Ordinance shall be interpreted and enforced by the Zoning Administrator. The term 'Zoning Administrator' shall include any official or officials designated by the Township Board to administer this Ordinance.

B. Duties and Limitations. The Zoning Administrator shall carry out the following duties and have the following limitations:

1. The Zoning Administrator shall have the authority to inspect buildings or premises necessary to carry out duties in the enforcement of this Ordinance.
2. The Zoning Administrator shall require that an application for excavation, construction, moving, alteration, or change in type of use or type of occupancy, shall, where required by this Ordinance, be accompanied by a site plan, in accordance with Chapter 4 of this Ordinance.
3. If the proposed excavation, construction, moving or alteration, or use of land as set forth in the application, and site plan, when required, is in conformity with the provisions of this Ordinance and all other pertinent regulations, the Zoning Administrator shall approve said application. If an application is not approved, the Zoning Administrator shall state in writing the cause for such disapproval.
4. Approval of plans or applications shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any Person making application to excavate, construct, move, alter, or use Buildings, Structures, or land, except as such authority may be explicitly provided for in this Ordinance. The Zoning Administrator shall have no authority to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his/her duties.
5. The Zoning Administrator shall not refuse to approve any application or issue any permit when the applicant has complied with all applicable conditions required by this Ordinance and all other pertinent ordinances and regulations. Violations of contracts such as covenants, deed or plat restrictions, or private agreements which may result upon the granting of a permit or approval of an application are not cause for refusal to issue a permit or reject a plan.
6. The Zoning Administrator shall maintain and safely keep copies of all plans and payments submitted with applications for permits. These shall form a part of the records of his/her office and shall be available to the public as necessary.
7. The Zoning Administrator shall work in conjunction with the Montcalm County Sheriff Department for issuance and serving of appearance tickets on any person where there is reasonable cause to believe that the person or his/her place of business has committed a violation of this Ordinance.

8. The Zoning Administrator shall attend Planning Commission, Township Board, Zoning Board of Appeals, and other such meetings as requested by the Township Board as necessary to provide necessary information on pertinent zoning and planning issues.
9. The Zoning Administrator shall submit to the Township Board a monthly statistical report detailing the number of zoning permits, complaints, and burning permits issued, along with a written report to the Township Supervisor outlining key issues that occurred in the previous month for members of the Township Board to review prior to their monthly meeting.

SECTION 29.01 PERMITS

A. Zoning Permits.

1. It shall be unlawful to erect, alter, move, or substantially repair any building or structure, or begin excavation or site work for such building or structure, or commence or expand a land use or activity, unless a zoning permit has first has been issued by the Zoning Administrator for such work.
2. It shall be unlawful to alter the contour of the land, remove, or damage wetlands or environmentally sensitive areas, or to change the type of use or type of occupancy of any building, unless the Zoning Administrator has issued a zoning permit for the intended use.
3. Before any zoning permit is issued, an application shall be submitted to the Zoning Administrator. Each application shall include sufficient information to allow the Zoning Administrator to determine compliance with this Ordinance and shall include, as a minimum, the following information:
   a. The location and actual dimensions of the lot or premises to which the permit will apply;
   b. The area, size, and location of all buildings or structures to which the permit is to apply;
   c. The existing and proposed use of land, buildings, or structures to which the permit will apply;
   d. The use of land, buildings, or structures on adjoining lands; and
   e. The width of all abutting streets;
4. The Zoning Administrator, in his/her discretion, may waive the inclusion of any of the foregoing information in an application if he/she determines that such information is not reasonably necessary to determine compliance with the terms and provisions of this Ordinance.
5. Application and escrow fees for the inspection and issuance of zoning permits shall be collected by the Township prior to the processing and issuance of a zoning permit. The amount of such fees shall be established by Township Board and shall also cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.
6. The Zoning Administrator shall either issue a zoning permit if the proposed work or use is in conformance with the terms and provisions of this or any other Ordinance or deny issuance of a permit and state the reason(s) or cause(s) for such denial in writing. In each case, the permit or the written reason(s) or cause(s) for denial shall be transmitted to the owner or his/her agent.

The Zoning Administrator may attach reasonable conditions to the issuance of any zoning permit.

7. Any zoning permit issued under the provisions of this Ordinance shall be valid for a period of one year following the date of issuance thereof. Any project which has not substantially commenced within the one-year period may not be started or continued unless the permit is reissued, extended, or a new zoning permit is issued pursuant to the provisions of this Section.

8. No building, structure, or use for which a zoning permit has been issued shall be used or occupied until after a final inspection has been performed that indicates all the provisions of this Ordinance are met and a certificate of occupancy has been issued by the Building Official.

9. The issuance of a zoning permit shall not be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter, or use buildings, structures, or land.

10. The Zoning Administrator shall have the power to revoke or suspend any zoning permit in the event that an applicant fails to comply with this Ordinance or the permit, or in the event of any false statements or misrepresentations in the application for the permit. Notice of such suspension and revocation shall be securely posted at the site of the application, and such posting and shall be considered as notice to the permit holder of the suspension or revocation of the permit.

11. A violation of any condition attached to a zoning permit is also a violation of this Ordinance.

B. Building Permits

1. In all cases where a building permit is required, application for a zoning permit shall be made coincidentally with the application for a building permit and in all other cases shall be made not less than 10 days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. No building permit shall be issued unless and until a zoning permit is issued first by the Township. If a zoning permit is revoked, then the building permit shall also be revoked as well.

2. No building or structure shall be erected, altered, moved, or substantially repaired unless a Building Permit has been issued by the Township or the Montcalm County Building Department for such work.

3. No building or structure shall be erected, altered, moved, or substantially repaired, and no land use shall commence until all applicable construction code permits, inspections, and final approvals for such work are completed by the Township or the Montcalm County Building Department.

4. No building permits shall be issued by the Township or the Montcalm County Building Department unless a Zoning Permit is issued by the Zoning Administrator.

5. Eureka Charter Township has adopted all current construction codes for building, mechanical, plumbing, and electrical work as adopted and enforced by the State of Michigan Department of

Labor and Economic Growth.

6. The holder of every building permit for the construction, erection, alteration, repair, or moving of any building or structure shall notify the Building Official immediately upon completion of the work authorized by the permit for a final inspection.

   a. A Certificate of Occupancy shall be issued by the Township or the Montcalm County Building Department for major renovations, new construction, and changes in use.

   b. Fees for issuance of building permits and inspections may be collected by the Township or the Montcalm County Building Department. The fees shall be established by Resolution of the Montcalm County Board of Commissioners or the Township Board.

C. Reapplication. No application for a zoning permit, Site Plan Review, Special Land Use, Planned Unit Development, or Variance that has been denied, in whole or in part, by either the Planning Commission or the Zoning Board of Appeals, may be resubmitted for a period of 12 months from the date of the denial, except on the grounds of newly discovered evidence or unless the site plan is substantially changed in the opinion of the Zoning Administrator.

SECTION 29.02 PLANNING COMMISSION

Eureka Charter Township has created a Planning Commission in accordance with the Michigan Planning Enabling Act, Act 33 of 2008, as amended. See “Ordinance to Confirm the Establishment of the Planning Commission with Zoning Authority” (Ordinance #82), as amended.

SECTION 29.03 PUBLIC HEARINGS AND NOTICES

Where this Ordinance requires the Township to provide notice of a public hearing for any decision or action permitted, authorized, or required by this Ordinance or under Act 110 of the Public Acts of 2006 as amended, notice of the public hearing shall be given as follows:

A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.

B. Except as provided in subsection D below, a notice of public hearing shall also be mailed or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:

   1. The applicant;

   2. The owner or owners of the subject property;

   3. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application or request, even if the 300 feet extends outside of the Township’s boundaries; and

   4. The occupants of all structures within 300 feet of the property that is the subject of the application or request, even if the 300 feet extends outside of the Township’s boundaries. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

C. The notice of public hearing shall include the following information:

1. A description of the nature of the proposed amendment, application, or request.
2. An identification of the property that is the subject of the application or request, if applicable. Except as provided in subsection D below, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property and another means of identification of the property shall be used.
3. State when and where the application or request will be considered.
4. Identify when and where written comments will be received concerning the application or request.
5. In the case of an amendment to the Ordinance or to the Zoning Map, the notice shall indicate the place where and the times when the proposed text or map amendment may be examined.

D. When a proposed amendment involves the text of the Zoning Ordinance or rezoning of 11 or more adjacent properties, or when a petition to the Zoning Board of Appeals involves an interpretation of the Zoning Ordinance or an appeal of an administrative decision that does not involve a specific parcel, the mailing or delivery requirements of subsections B(2), B(3) and B(4), of this Section are not required, and the listing of individual property addresses under subsection C(2) is not required.

E. For a zoning ordinance amendment, including the rezoning of property, the notice shall be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township for the purpose of receiving the notice of public hearing.

F. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the body holding the public hearing may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 29.04 AMENDMENTS

A. Procedure.

1. Written applications for the adoption of a zoning change or amendment to this Ordinance, including the zoning map, may be initiated by:
   a. Any public agency;
   b. Any interested person, per item A,2 below;
   c. The Planning Commission;
   d. The Zoning Board of Appeals; or
   e. The Township Board.

2. If said application is for a zoning change, an “interested person” shall either be the owner of the property that is being considered for the zoning change, or if not the owner of the property, the applicant shall submit a written statement from the property owner indicating his or her permission to submit such application.

3. All applications for amendments to the Zoning Ordinance shall be submitted to the Zoning Administrator at least 21 days prior to the first consideration by the Township Planning Commission. An application for a zoning amendment shall consist of:

    a. The name, address, and interest of the person making the request and the name, address, and interest of all persons having a legal or equitable interest in any land that is requested to be rezoned.

    b. A written statement from the property owner indicating his or her permission to submit such application, if applicable.

    c. The nature and effect of the proposed amendment.

    d. Payment of a fee, as established by the Township Board.

    e. The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

    f. The alleged error in the ordinance, if any, that would be corrected by the proposed amendment, along with a detailed explanation of such alleged error and an explanation why the proposed amendment will correct it.

    g. All other circumstances, factors, and reasons that the petitioner offers in support of the proposed amendment.

    h. If the proposed amendment would require a change in the Zoning Map, the following shall also be required:

        1) A fully dimensioned map clearly showing the property to be considered for the zoning change, including all properties within 300 feet of the subject property;

        2) The current zoning of the property to be considered for a zoning change and of all abutting lands;

        3) All public and private rights-of-way and easements bounding and intersecting the land to be rezoned.

        4) A legal description of the property to be considered for the zoning change.

4. The Planning Commission, after holding a public hearing conducted in accordance with the requirements of the Michigan Zoning Enabling Act, as amended, shall forward the application with a recommendation to the Township Board for its consideration.

5. Upon receipt of the recommendation from the Planning Commission, the Township Board shall either approve or deny the requested amendment in accordance with the procedures adopted by

the Board.

B. Map Amendment (Rezoning).

1. In making its recommendation on a proposed amendment of the Zoning Ordinance to the Township Board, the Planning Commission shall consider the following factors:

   a. If the proposed zoning amendment is consistent with the Township's adopted Master Plan;

   b. If the proposed zoning amendment is consistent with recent development trends in the area;

   c. If the zoning amendment is compatible with existing and future land uses in the vicinity of the subject site or throughout the zoning district(s) affected by the proposed amendment;

   d. If existing or planning public infrastructure, including streets, sanitary sewers, storm water, water mains or wells, sidewalks, and street lighting are capable of accommodating potential changes in land use resulting from the proposed amendment;

   e. If the proposed amendment is consistent with the intent and purpose of this Ordinance and whether the proposed amendment would protect the health, safety, and welfare of the Township;

C. Text Amendment.

1. Prior to making a recommendation on a proposed amendment of the Zoning Ordinance text to the Township Board, the Planning Commission shall consider the following factors:

   a. If the proposed text amendment would clarify the intent of the Ordinance or correct an error;

   b. If the proposed text amendment would address changes to state legislation, recent case law, or opinions from the Attorney General, or promote compliance with changes in other county, state, or federal regulations;

   c. If the proposed amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items;

   d. If the proposed amendment is consistent with the Township's ability to provide adequate public facilities and services and is consistent with the Township's desire to protect the public health, safety, and welfare of the community; and

   e. In the event the amendment will add a use to a district, if the proposed use is fully consistent with the character of the range of uses provided for within the district, and that the amendment will not create incompatible land uses within a zoning district or between adjacent districts.

SECTION 29.05 FEES AND APPLICANT ESCROW ACCOUNTS

A. The Township Board may establish by resolution, fees for appeals, applications for amendments, special land uses, site plan reviews, zoning permits, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Township Hall and may be altered only by resolution of

the Township Board. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

B. If the Township determines that the basic fees provided under subsection A above will not cover the actual costs of the application review or appeal, or if the Township 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, then the Township may require the applicant to deposit with the Township such additional zoning fees in an amount determined by the Township equal to the estimated additional costs.

C. These additional 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 (10) percent of the initial escrow deposit or less than ten (10) percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator 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 29.06 PERFORMANCE GUARANTEES

In the interest of ensuring compliance with the Zoning Ordinance provisions, protecting the health, safety, and welfare of the residents of the Township, and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Zoning Administrator, Planning Commission, Zoning Board of Appeals or Township Board may require the applicant to deposit a Performance Guarantee with the Township as set forth herein. The purpose of the Performance Guarantee is to ensure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping. Performance guarantees may also be required as a condition of approval for land uses that may be temporary in nature and where the reclamation or restoration of a site to an acceptable condition will be needed, such as mining operations, wind and/or solar energy systems, and similar uses.

A. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator. All performance guarantees shall be subject to approval by the Township.

B. When a performance guarantee is required, said performance guarantee shall be deposited with the Township prior to the issuance of a zoning permit by the Zoning Administrator for the development and use of the land.

C. In the event a performance guarantee is required, the applicant shall also furnish such authorization as is required by the Township to permit the Township to enter upon the subject property to complete the improvements at the cost of the applicant, in the event of default by the applicant.

D. An approved site plan or project shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the zoning permit.

E. Upon the satisfactory completion of the improvement for which the performance guarantee as required, and as determined by the Zoning Administrator, the Township shall return to the applicant the performance guarantee deposited.

F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township administrative costs in completing the improvement with any balance remaining being refunded to the applicant. At the time the performance guarantee is deposited with the township and prior to the issuance of a zoning permit, the applicant shall enter an agreement incorporating the provisions hereof with the township regarding the performance guarantee.

SECTION 29.07 ENFORCEMENT

A. If the Zoning Administrator shall find that any of the provisions of this Ordinance are violated, he/she shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary for correction. He/she shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures or of illegal addition, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance or general law to ensure compliance with or to prevent violation of the provisions of this Ordinance.

B. A violation of this Ordinance shall be a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The following shall apply to any person determined responsible for a municipal civil infraction:

1. Penalty. A municipal civil infraction shall be punished by a fine as determined annually by the Eureka Charter Township Board, at the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law.
2. Separate Offense. Each act of violation and every day during which any violation continues shall be deemed a separate offense.
3. Compliance Required. The imposition of any sentence, fine, penalty, or remedy shall not exempt or excuse an offender from compliance with the provisions of this Ordinance.
4. Relief. The foregoing penalties shall not prohibit Eureka Charter Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

C. Any building or structure that is erected, altered or converted, or any use of premises or land that is begun or changed subsequent to the time of passage of this Ordinance and is in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction.

D. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law. In addition to the above remedies, the Township or any person may institute a civil lawsuit to abate any violation of this Ordinance. Any violation of this Ordinance is a nuisance per se. The Township's remedies are cumulative and not exclusive. Should the Township prevail in any court action to enforce this Ordinance, either in whole or in part, then the Township shall also be awarded its attorney fees and costs.

E. The prohibitions and penalties of this Ordinance shall apply not only to the landowner or owners and to any person, firm, entity, corporation or association who or which does anything prohibited by this Ordinance and those who aide and abet such acts, but also to any owner, co-owner, lessee, tenant, licensee, part-owner, occupant or person, firm, corporation, or entity owning or having control of any premises or property in violation of this Ordinance.

SECTION 29.08 CERTIFICATE OF OCCUPANCY

No land shall be used and no building hereafter erected or altered shall be occupied or used for any purpose until a Certificate of Occupancy shall have been issued by the Building Official stating that the premises or building complies with the provisions of approved plans and all Ordinances of the Township. Where any special land use, variance, or site plan review conditions are applicable, said conditions shall be stated on the Certificate of Occupancy. A record of all Certificates of Occupancy shall be kept on file in the Township. A copy also shall also be sent to the Township Assessor. Where a Building Permit is not involved, the Zoning Administrator shall issue a Zoning Permit. Said permit may be in the form of a letter or such instrument as determined by the Township Board to be fulfill the requirements of this section. No Certificate of Occupancy shall be issued where the structure or lot involved is in violation of this Ordinance, any other Township ordinance or any state or county law or regulation.

SECTION 29.09 STOP WORK ORDERS

A. Notice to Owner. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.

B. Unlawful Continuance. Any person who continues to work on, in or about the structure, land or building or use it after having been served with a stop work order, except such work as that person is directed to perform to remove a violation, shall be in violation of this Ordinance.

SECTION 29.10 ZONING AGREEMENTS; CONDITIONAL REZONING

A. The Township Board recognizes that there are certain instances where it would be in the best interest of Eureka Charter Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions and limitations could be proposed by an applicant as part of an application for a rezoning. Therefore, it is the intent of this section to provide a process by which an applicant seeking a change in zoning districts may propose a Zoning Agreement, with conditions and commitments attached thereto, as part of the application for the requested rezoning. These provisions shall be in accordance with the provisions of the Zoning Act, as amended.

B. The following definitions shall apply to this section:

1. Rezoning Offer - shall mean conditions proposed by the applicant and approved by the Township that are processed as part of an approval under this section. These conditions shall constitute permanent requirements for and in connection with the development and/or use of the property approved with a Zoning Agreement.

2. Zoning Agreement - shall mean a written agreement offered by the applicant and approved and executed by the applicant and the Township and recorded with the Montcalm County Register of Deeds, incorporating the Rezoning Offer along with any requirements necessary to implement the Rezoning Offer. When necessary, the Zoning Agreement shall also include and incorporate, by reference, a site plan that illustrates the implementation of the Rezoning Offer. This plan shall not replace the requirement for a site plan or other approvals that may be required by this Ordinance.

C. Eligibility: An applicant for rezoning may submit a proposed Zoning Agreement with an application for rezoning.

D. Zoning Agreement

1. The Zoning Agreement shall set forth the Rezoning Offer and shall include those terms necessary to implement the Agreement. In addition, the Zoning Agreement shall include the following acknowledgments and understandings that:

2. The Zoning Agreement and the Rezoning Offer were proposed voluntarily by the applicant, and that the Township relied upon the Agreement and may not grant the rezoning without the Rezoning Offer and terms spelled out in the Zoning Agreement.

3. The Zoning Agreement and its terms and conditions are authorized by all applicable state and federal laws and constitutions, and that the Zoning Agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the Township.
4. The property shall not be developed and/or used in any manner that is not consistent with the Zoning Agreement.
5. The approval and the Zoning Agreement shall be binding upon the property owner and the Township, and their respective heirs, successors, assigns, receivers, or transferees.
6. If a rezoning with a Zoning Agreement becomes void in accordance with the Zoning Act, no development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established or a new rezoning with a Zoning Agreement has been approved.
7. Each of the requirements and conditions in the Zoning Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact or other condition created by the uses, activities or conditions represented in the approved rezoning and Zoning Agreement, taking into consideration the changed zoning district classification and the specific use(s), structures, activities, or conditions authorized.
8. No part of the Zoning Agreement shall permit any activity, use, structure, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new Zoning District.

E. Rezoning Offer

1. The Zoning Agreement shall specify the Rezoning Offer and any requirements necessary to implement it. However, the Rezoning Offer may not authorize uses or developments of greater intensity or density, and/or which are not allowed in the new zoning district; nor may any variances from height, area, setback or similar dimensional requirements in the Zoning Ordinance of Eureka Charter Township be allowed unless a variance has been previously granted by the Zoning Board of Appeals pursuant to the requirements of Chapter 24 hereof.
2. Any uses proposed as part of a Zoning Agreement that would otherwise require approval of a special land use permit and/or site plan shall be approved as required in this Ordinance prior to establishment of or commencement of development of the use.

F. Procedure for Application, Review and Approval

1. An application for rezoning shall be the same as specified in the Zoning Act. In addition to the required materials listed, a Zoning Agreement in a recordable format acceptable to the Township shall be submitted, along with any plans necessary to illustrate the Rezoning Offer.
2. The application may be amended during the process of Township consideration, provided that any amended or additional Rezoning Offers are entered voluntarily by the applicant.

3. The Zoning Agreement shall be reviewed by the Township Attorney prior to the required Planning Commission public hearing. The Township Attorney shall determine that the Zoning Agreement conforms to the requirements of this section and the Zoning Act, as amended, and shall confirm that the Zoning Agreement is a form acceptable for recording with the Montcalm County Register of Deeds.
4. An escrow fee deposit may be required by the Township to cover any and all costs incurred for addressing the Zoning Agreement request.

G. Approval

1. If the rezoning and Zoning Agreement are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the Zoning Agreement. The Zoning Map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a Zoning Agreement. The Township Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
2. Upon rezoning, the use of the property in question shall conform to all of the requirements regulating use and development within the new zoning district as well as the Zoning Agreement; however, the more restrictive requirements of the Zoning Agreement shall apply, and the Zoning Agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
3. The approved Zoning Agreement shall be recorded with the Montcalm County Register of Deeds by the applicant with proof of recording provided to the Township.
4. Prior to development, a site plan shall be approved in accordance with this Ordinance, if otherwise required.

H. Continuation

1. Provided that all development and/or use of the property in question is in compliance with the Zoning Agreement, a use or development authorized under the agreement may continue indefinitely, provided that all terms of the Rezoning Offer and the Zoning Agreement continue to be adhered to.
2. Failure to comply with the Zoning Agreement at any time after approval may constitute a breach of agreement, and further use of the property may be subject to legal remedies available to the Township.

I. Amendment

1. During the initial two (2) year period, or during any extension granted by the Township as permitted above, the Township shall not add to or alter the Rezoning Offer in the Zoning Agreement.

2. The Zoning Agreement may be amended after the expiration of the initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and Zoning Agreement

SECTION 29.11 TIME LIMITS

If a zoning approval or permit under this Ordinance has been granted with a specific time limit and the use has not commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval or permit shall automatically expire (and be void) at the end of that time limit. No extension to that time limit shall be granted except by the Township body, commission, or official which granted the initial zoning approval or permit. If a zoning approval or permit is silent with regard to a time limitation, the time limitation shall be deemed to be one (1) year, and the zoning approval or permit shall expire (and be void) after one (1) year if the use has not been commenced or substantial construction has not begun within said one (1) year time limitation. A time extension may be granted only by the body, commission, or official that granted the initial zoning approval or permit.

SECTION 29.12 PROOF OF OWNERSHIP

The Zoning Administrator or Building Official may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before the issuance of a Zoning Permit or a Building Permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The Township may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a Building Permit, variances, special land use requests, site plan review, Zoning Permits, and any other zoning or building code action.

SECTION 29.13 SURVEYS

The Zoning Administrator or Building Official shall have the authority to require that an applicant or property owner provide the Township with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with property boundaries staked by such professional) if the Zoning Administrator or Building Official determines that it is reasonably necessary in order for the Township to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Official may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All surveying costs shall be paid for by the applicant or property owner.

SECTION 29.14 REPRESENTATIONS AND PROMISES OF DEVELOPERS AND PROPERTY OWNERS

If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a rezoning, special use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be

deemed to be an enforceable condition of any such zoning approval in writing, and whether or not it is reflected in the zoning approval motion, resolution, permit, or other Township approval document) if the Township deems such promise, representation, or condition to have been a consideration by the official or Township body which granted the zoning approval and the Township also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

SECTION 29.15 REVOCATION OR TERMINATION OF ZONING APPROVALS

If a property owner or applicant violates any of the conditions or requirements attached to a zoning approval or Zoning Permit, then the Township body, board, or official that granted the zoning approval or permit may terminate the zoning approval or Zoning Permit. Where a special land use, PUD, variance, or site plan approval was involved, no such revocation shall occur until and unless the property owner or applicant has been given reasonable notice and a public hearing has been held regarding the revocation.

SECTION 29.16 SEVERABILITY

This Ordinance and each section, subsection, paragraph, subparagraph, or any provision thereof, shall be deemed to be severable. If any section, subsection, paragraph, subparagraph, or any other provision of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional for any reason, it is hereby provided that the remainder of this Ordinance shall not be affected thereby and shall remain in force and effect.

SECTION 29.17 NO ADMINISTRATIVE LIABILITY

No officer, agent, employee, Building Official, Zoning Administrator, or member of the Planning Commission, Township Board, or Zoning Board of Appeals shall be personally liable for any damage that may accrue to any Person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of duties and responsibilities pursuant to this Ordinance.

SECTION 29.18 NON-ESTOPPEL AND NON-WAIVER

If any provision of this Ordinance is not enforced against a particular lot, parcel, or property or throughout the Township in general, that shall not be deemed to be a waiver (or constitute laches) regarding the ability of the Township to enforce that provision (or any other provision) of this Ordinance against a particular lot, parcel, or property involved or throughout the Township in general. Furthermore, should any Township official, body, board, or commission render any zoning approval or opinion, or undertake (or not undertake) any other action pursuant to this Ordinance, and it is determined that any such opinion, interpretation, approval, action or inaction was done in error or in an *ultra vires* or other mistaken fashion, that shall not preclude the Township from reversing, revoking, or revising any such zoning approval, interpretation, opinion, action, or inaction which was done in error and to thereafter enforce the provision or provisions of this Ordinance involved. The Michigan common law "rule of municipal non-estoppel" shall benefit the Township, as well as its officials, officers, bodies and commissions.

SECTION 29.19 REPEALER

The former Zoning Ordinance of this Township (Ordinance #79), effective December 16, 2007, and all amendments thereto prior to January 1, 2021, are hereby repealed; provided, however, that the same shall remain in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of any penalty or liability thereunder. All other ordinances and parts of ordinances, or amendments thereto, of the Township, in conflict with the provisions of this Ordinance, except those ordinances and parts of ordinances or amendments thereto which are more restrictive than this Ordinance, are hereby repealed to the extent of such conflict.

SECTION 29.20 EFFECTIVE DATE

This Ordinance was adopted at a regular meeting of the Eureka Charter Township Board on May 9, 2022, and is ordered to take effect upon the expiration of eight (8) days following publication of adoption in *The Daily News*, a newspaper having general circulation in the Township, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.