

# RECORD OF ORDINANCES

ORDINANCE NO. 13

Township of Evangeline County of Charlevoix

Ordinance No. 13 enacted by the Board February 5, 1990

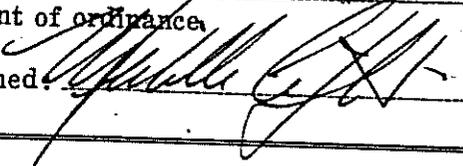
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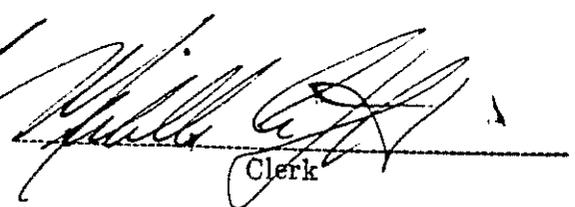
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<u>Linda Fry</u>	( <u>Yes</u> )	_____	( <u>    </u> )

I CERTIFY that publication was made on February 9, 1990  
within 10 days after enactment of ordinance.

Signed: , Township Clerk

THE TOWNSHIP OF Evangeline ORDAINS,

See the following 71 pages

Signed  Supervisor  Clerk

# Evangeline Township Zoning Ordinance

## Table Of Contents

Article 1 - Preamble	
Section 1.01 - Title	1
Section 1.02 - Purpose	1
Section 1.03 - Authority	1
Section 1.04 - Validity	1
Article 2 - Definitions	2
Section 2.01 - Definitions	2
Article 3 - General Provisions	8
Section 3.01 - Zoning Map Of Evangeline Township	9
Section 3.02 - Scope Of Ordinance	9
Section 3.03 - Essential Service Clause	9
Section 3.04 - General Lot And Yard Limitations	9
Section 3.05 - Lot-Building Relationship	9
Section 3.06 - Lot Width To Depth Ratio	9
Article 4 - Schedule Of District Regulations	10
Section 4.01 - Kinds Of Districts	10
Section 4.02 - Residential, R-1	10
Section 4.03 - Residential, R-2	11
Section 4.04 - Residential, R-3	12
Section 4.05 - Mobile Home Parks, R-4	15
Section 4.06 - Commercial, C-1	15
Section 4.07 - Industrial, I-1	16
Section 4.08 - Agricultural, A-1	17
Section 4.09 - Recreational, R-C	19
Article 5 - Supplemental Regulations	19
Section 5.01 - Mobile Home As A Dwelling Unit	20
Section 5.02 - Mobile Home Parking	20
Section 5.03 - Mobile Home As A Temporary Dwelling Unit	20
Section 5.04 - Screen Between Land Uses	20
Section 5.05 - Vehicular Parking Space And Access	20
Section 5.06 - Grading And Lot Improvements	21
Section 5.07 - Signs, Permanent	21
Section 5.08 - Lot Creation	24
Article 6 - Environmental Provisions	24
Section 6.01 - Water Supply And Sewage Disposal Facilities	24
Section 6.02 - Greenbelt Zone Provision	24
Section 6.03 - Lot Coverage	24
Section 6.04 - Wetland Provision	24

Section 6.05 - Setback Provision	25
Article 7 - Special Land Uses	25
Section 7.01 - Purpose	25
Section 7.02 - Application Procedures	25
Section 7.03 - Basis Of Determination	28
Section 7.04 - Effective Date	30
Section 7.05 - Permit Validity	30
Section 7.06 - Requirements For Compliance	31
Section 7.07 - Once Granted A Special Land Use Permit	31
Section 7.08 - Specific Requirements	31
Article 8 - Site Plan Review	32
Section 8.01 - Purpose	32
Section 8.02 - Site Plan Review In Use Districts Required	32
Section 8.03 - Application For Site Plan Review	33
Section 8.04 - Site Plan Review And Approval	36
Section 8.05 - Procedures For Submission And Review	36
Section 8.06 - Distribution Of Copies and Action Alternatives	37
Section 8.07 - Standards For Granting Site Plan Approval	39
Section 8.08 - Conditional Approvals	41
Section 8.09 - Conformity To Approved Site Plan Required	41
Section 8.10 - Performance Guarantee	45
Section 8.11 - Amendments To Approved Site Plans	46
Section 8.12 - Appeals Of Final Site Plans	48
Section 8.13 - As Built Site Plan	48
Section 8.14 - Land Clearing	48
Article 9 - Fencing/Screening/Buffering/Landscaping	49
Section 9.01 - Purpose	49
Section 9.02 - Application	49
Section 9.03 - Landscape Plan Required	49
Section 9.04 - Screening Between Land Uses	50
Section 9.05 - Parking Lot Landscaping	50
Section 9.06 - Greenbelt Buffers	50
Section 9.07 - Site Landscaping	51
Section 9.08 - Minimum Size And Spacing Requirements	51
Section 9.09 - Landscape Elements	51
Section 9.10 - Installation And Maintenance	52
Section 9.11 - Fencing And Screening	52
Section 9.12 - Exceptions To Fencing And Screening Requirements	53
Section 9.13 - Materials For Fencing And Screening	54
Section 9.14 - Barrier Fences	54
Section 9.15 - Fire Hazard	54
Article 10 - Administration And Enforcement Of Ordinance	54
Section 10.01 - Zoning Administrator	55
Section 10.02 - Zoning Permit And Certification Of Compliance	55
Section 10.03 - Violations And Penalties	56
Section 10.04 - Miscellaneous	56

Article 11 - Nonconforming Uses And Structures	57
Section 11.01 - Definition And Classification Of Nonconforming Uses And Structures	57
Section 11.02 - Procedure For Obtaining Class A Designation	57
Section 11.03 - Revocation Of Class A Designation	57
Section 11.04 - Regulations Pertaining To Class A Nonconforming Uses and Structures	58
Section 11.05 - Regulations Pertaining To Class B Nonconforming Uses and Structures	59
Section 11.06 - Determination Of Replacement Cost	60
Section 11.07 - NonConforming Lots Of Record	60
Section 11.08 - Discontinuance Of Nonconforming Use	60
Section 11.09 - Creation of NonConforming Lots or Parcels	60
Article 12 - Zoning Board Of Appeals	61
Section 12.01 - Creation	61
Section 12.02 - Membership	61
Section 12.03 - Rules Of Procedure	61
Section 12.04 - Appeals	62
Section 12.05 - Duties And Power	62
Article 13 - Amendments	64
Section 13.01 - Amendment Procedure	64
Article 14 - Effective Date	65
Section 14.01 Effective Date	65

ARTICLE 1

PREAMBLE

Section 1.01 - Title

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

Section 1.02 - Purpose

The purpose of the Ordinance is to:

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

Section 1.03 - Authority

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the State of Michigan, Township Rural Zoning Act, Act 184 of the Public Acts of 1943, as amended.

Section 1.04 - Validity

This Ordinance and various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any

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

## ARTICLE 2

### DEFINITIONS

#### Section 2.01 - Definitions

- A. For the purpose of this Ordinance, certain terms used are herein defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular include the plural number, and conversely. The word "shall" is always mandatory and not merely discretionary. Whenever the word "owner" appears it is to be interpreted as including: The owner; his agent or the lessee, as the case may be.
1. Accessory Building: Any building not attached to the principle building or structure and that is customarily incidental and subordinate to the use of the principle building, or structure including but not limited to a garage, shed or storage building.
  2. Accessory Structure: Any building or structure that is customarily incidental and subordinate to the use of the principal building or structure, including but not limited to, accessory buildings, decks, satellite dishes, or signs.
  3. Accessory Uses: A use of any building, structure, or parcel(s) of property that is customarily incidental and subordinate to the principal use and that does not alter the characteristics (interior, exterior or otherwise) of the building, structure, or property.
  4. Basement: That portion of the building which is partly underground and which has most of its floor to ceiling height below grade.
  5. Building: Any structure either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind.
  6. Building, Height of: the elevation measured from the average finished lot grade at the front of the building to the highest point of the roof.
  7. Cabins: Any building, tent or single structure which is maintained, offered or used for dwelling or sleeping quarters for transients, or for temporary residence ninety (90)

- consecutive days, but shall not include what are commonly designated as hotels, lodging houses or tourist homes.
8. Cabin Parks: Any tract or parcel of land on which two or more cabins as herein defined, are maintained, offered or used for dwellings or sleeping quarters for transients.
  9. Condominium Act: Michigan Public Act 59 of 1978 as amended.
  10. Dog Kennels: Dog kennels shall be defined as the keeping or harboring of three or more dogs, any of which are not owned by the owner of said parcel of land on which the dogs are harbored or cared for.
  11. Dwellings: Any building or part thereof, occupied as the home, residence and sleeping place of one or more persons, including mobile homes, except travel trailers, motels, and similar facilities offered to transients.
  12. Dwelling, Single Family: A dwelling occupied by but one (1) family.
  13. Dwelling, Two Family: A dwelling occupied by two (2) families and so designed and arranged as to provide independent living, cooking, kitchen and bath accommodations for two (2) families.
  14. Environmentally Sensitive Areas: Includes all lands within the setback requirements located adjacent to a lake, river or streams as defined in this Ordinance, wetlands, designated floodplains and lands with slopes greater than 15% slopes
  15. Erected: Includes built, constructed, reconstructed, moved upon, or any physical operation on the land required for the building. Excavations, fill, drainage and the like shall be considered a part of erection.
  16. Family: One or more individuals occupying a dwelling unit and living as a single nonprofit housekeeping unit with a single kitchen facility as distinguished from a group of persons occupying a boarding house, tourist home, lodging house, hotel, motel, fraternity or sorority house, or a dormitory.
  17. Farm: Means the land, buildings and machinery used in the commercial production of farm products. Establishments keeping dog kennels, riding stables, slaughter houses, fertilizer works, and bone yards shall not be considered as a farm.
  18. Farm Products: Means those plants and animals useful to human beings and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, trees, fish, apiaries, equine and other similar products, or any other product which incorporates the use of food, feed, fiber or

fur.

19. Farm Building: A building or structure other than a dwelling, moved upon, maintained, used or built on a farm which is essential and customarily used on farms of that type for the pursuit of their agricultural activities.
20. Floor area: The area of all floors computed by measuring the dimensions of the outside walls of a building. Porches, patios, terraces, breezeways, interior utility areas, carports, verandas, garages, unfinished attics, attic floor areas with less than five (5) vertical feet from floor to finished ceiling are excluded. Floor areas of walkout basements may be considered if finished off in such a manner as to be suitable for occupancy and which contains a means of exit from each room directly to the exterior of the structure in compliance with the applicable building and fire codes. This square footage can be used for the purposes of complying with the floor area requirements of this Ordinance.
21. Green Belt Zone: Means an area of maintained natural vegetation between all structures on the property and the High Water Level Elevation that extends the entire width of the property.
22. High Water Level Elevation: For Lake Charlevoix this is the highest water level elevation for Lake Michigan/Huron as recorded by the United States Army Corp of Engineer, plus two (2) FEET For Walloon Lake this level is the elevation of the outlet dam or as set by the courts plus one half (1/2) foot. For all other lakes and streams this level is the 100 year flood plain elevation plus one half (1/2) foot.
23. Highway: Any public thoroughfare, road or street, except alleys including Charlevoix County, Federal and State roads and highways.
24. Home Occupations: An occupation carried on entirely within a dwelling which is clearly secondary to the use of the premises as a residence. Not more than three (3) employees shall be permitted in the home occupation, two (2) of which must reside on the premises. The home occupation may not take place in the garage portion of the building or in any accessory structures, nor outside the dwelling, and may occupy no more than twenty-five percent (25%) of the floor area of the dwelling. A home occupation shall not result in increased traffic flow, the creation of offensive noise, odors, light, pollution of other types, or otherwise create a nuisance. No home occupation shall result in interior or exterior alterations to the structure.
25. Inoperable Vehicle: Includes any vehicle without a current licence, registration or certification to operate in the air, on the water, or public street, road, highway or public right-of-way.

26. Junk Yard: Any parcel of land on which two or more inoperable vehicles are parked or stored, partly or wholly dismantled, not in a permanent building, shall be deemed to be a junk yard. For purposes of this definition a building shall not include tents, awnings, vehicles, whether mounted or not on wheels and situated on private property and used for purpose of a building.
27. Lot: A parcel of land, or contiguous parcels of land under one ownership described with fixed boundaries, or sufficient size and configuration to meet the site development requirements of this Ordinance and having access to a public road. So called "Site Condominium Projects" which have ownership interest and structures on identified areas of land and projects with similar characteristics established under the provisions of the condominium Act, P.A. 59 OF 1978, shall conform with applicable regulations in the Ordinance the same as all other lands meeting the definition of lot.
28. Lot Coverage: The percentage (%) of the property covered by buildings, driveways, sidewalks, parking areas, loading docks, or other structures and impervious surfaces which impede the free infiltration of water.
29. Lot Line: The boundaries of a lot which divide one lot from another lot or from a public or existing private road or any other publicly owned parcel of land.
30. Lot Line, Front: The portion of the property that borders on a road. Where a parcel of property is on a corner lot there shall be two front lot lines, and the setback from the front yard shall be maintained on each front yard.
31. Lot Line, Rear: Line opposite and most distant from the front lot line.
32. Lot Line, Side: Any lot line which is neither the front or rear lot line.
33. Lot Of Record: A parcel of property described by a legal instrument such as a warranty deed, quit claim deed, or land contract recorded in the offices of the Charlevoix County Register of Deeds.
34. Mobile Home: Means a structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connect to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.
35. Mobile Home Park: Any site, lot, field, tract, or parcel of

- land upon which two (2) or more occupied mobile homes are harbored either free of charge, or for revenue purposes and shall include any structure, building, or enclosure used or intended for use as a part of the equipment of such park.
36. Net Acreage: Means the area of the lot excluding floodways, areas with slopes greater than fifteen percent (15%), wetlands, easements, required yards and open spaces and similar unbuildable land.
  37. Nonconforming Use: A use of property or A structure that was lawful at the time of the adoption of the zoning Ordinance or an amendment of the Ordinance but which does not conform with the Ordinance requirements.
  38. Planning Commission: The Evangeline Township Planning Commission established pursuant to the Township Planning Act P.A. ACT 168 OF 1959, as amended.
  39. Principle Use: The main or central purpose (use) to which a parcel is put. There shall be only one principle use per parcel.
  40. Private Right-of-way: A street, alley or other thoroughfare, or easement permanently established with a minimum width of sixty-six (66) feet for passage of persons, vehicles and/or public utilities which is constructed to Charlevoix County Road Commission standards and specifications .
  41. Public Utilities: Any utilities which fall under the jurisdiction of the Michigan Public Service Commission.
  42. Raceways: Raceways shall be defined as any trails, designated paths, routes, or roadways designed for the purpose of racing automobiles, horses, motorcycles, ATV's or snowmobiles.
  43. Replacement Cost: Means cost of new construction minus depreciation.
  44. Riding Stables: Riding stables shall be defined as the keeping of two (2) or more horses for the purpose of renting the same, on either an hourly, daily, weekly, or any time period, to any other persons other than the owners thereof.
  45. Roadside Stand: A structure used or intended to be used solely by the owner tenant of the property on which is located for sale only seasonable farm products of the immediate locality on which such roadside stand in located.
  46. Sanitary Landfill: Sanitary landfill shall be defined as waste disposal areas, where the waste is deposited in a trench, compacted, and back filled with land cover, in accordance with the Michigan Statutes regulating Sanitary Landfill.

47. Setback, Front Yard: The minimum distance any portion of any structure hereafter erected (or altered) shall be located from the highway right-of-way line or front lot line, as the case may be.
48. Setback, Side Yard: The minimum distance any portion of any structure hereafter erected (or altered) shall be located from the side lot line.
49. Setback, Rear Yard: The Minimum distance any portion of any structure hereafter erected (or altered) shall be located from the rear lot line.
50. Soils, Class I: Soil Series with very slow to moderately slow permeability identified in the Soil Survey of Charlevoix County or designated by the Charlevoix Soil and Water Conservation District as Soil Series in Soil Management Groups 1.5a, 2.5a, 3/2a, 4/2a, or 5/2a.
51. Soils, Class II: Soil Series with moderate to very rapid permeability identified in the Soil Survey of Charlevoix County or designated by the Charlevoix Soil and Water Conservation District as Made Land (Ma) or Lake Beaches (Lb) or as Soil Series in Soil Management Groups Ga, 3a, 4a, 5a, 5.3a, 5a-h or Ra.
52. Soils, Class III: Soil Series designated as hydric by the USDA Soil Conservation Service identified in the Soil Survey of Charlevoix County or designated by the Charlevoix Soil and Water Conservation District as Soil Series in Soil Management Groups 1c, 1.5c, 2.5c, 3b, 3c, 3/1c, 3/2b, 3/2c, 4c, 4/2c, 5c, Gbc, L-2c, L-Mc, Mc, Mc-a, M/mc, M/3c, M/4c, or Rbc.
53. Special Uses: Means land uses which have unique characteristics that are potentially discordant with other uses in a district. Special uses are subject to review and approval under MCLA 125.286C through 125.21 of the Township Zoning Enabling Act P.A. 169 of 1959 as amended.
54. Subdivision Control Act: Michigan Public Act 288 of 1967 as amended.
55. Structure: Any production or pieces of work artificially built up or composed of parts joined together in some definite manner, including but not limited to dwellings, decks, garages, buildings, satellite dishes, sewage disposal systems, drainfields, signs and signboards. This definition does not include incidental items such as birdhouses, birdbaths, utility poles, flag poles, swingsets, etc.
56. Tourist Home: A dwelling in which overnight accommodations are provided or offered to transient guest for compensation. A tourist home shall not be considered or construed to be a

multiple dwelling, motel, hotel, boarding or rooming house. A tourist home does include bed and breakfast establishments that conform with all local and state regulations.

57. Township Board: The Evangeline Township Board of Trustees.
58. Vehicle: Includes any motorized conveyance which requires a current licence, registration or certification to legally operate in the air, on the water, or on a public street, road, highway or public right-of-way.
59. Vertical Setback: For parcels located adjacent to a lake, river or stream, the top of the footings of any building or structure or the bottom of the trench of any drainfield erected after the date of enactment of this Ordinance shall be at a elevation equal to or greater than the High Water Level Elevation of said lake, river or stream.
60. Wetland: Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.
61. Yard: A space open to the sky and unoccupied or unobstructed on the same lot with a structure.
62. Yard, Front: A yard extending across the full width of the lot between the front lot line and the nearest line of any structure.
61. Yard, Rear: A yard extending across the full width of the lot between the rear lot line and the nearest line of any structure.
62. Yard, Side: A yard extending from the front yard to the rear yard between the side lot line and the nearest line of any structure.
63. Zoning Board Of Appeals: The Evangeline Township Zoning Board of Appeals established pursuant to the Township Rural Zoning Act P.A. 184 of 1943 as amended.

### ARTICLE 3

#### GENERAL PROVISIONS

##### Section 3.01 - Zoning Map of Evangeline Township

The Zoning Map Of Evangeline Township and all information and proper notations shown thereon are hereby made a part of this Ordinance. Unless otherwise provided, the boundary lines of all zoning districts shall be interpreted as following along section lines or the division of sections such as quarter and eighth lines; or the centerline of highways, streets, and waterways, or the shoreline of water bodies; or the boundaries of

incorporated areas, recorded plats or subdivisions; or property lines of legal record on the date of enactment of the Ordinance, or any extension of said lines. The Official Zoning Map Of Evangeline Township shall be on display at the Township Hall.

### Section 3.02 - Scope of Ordinance

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

### Section 3.03 - Essential Service Clause Pertaining To Utilities

The erection, construction, alteration, maintenance, and operation by public utilities or municipal departments or commission, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, supply systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, electrical substations, gas regular stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law and other Ordinances of the Township of Evangeline in any use district, provided that the above meet the setback and dimensional requirements of the respective districts and the Planning Commission is notified at least sixty (60) days prior to any major construction, and provided a Zoning Permit is obtained.

### Section 3.04 - General Lot and Yard Limitations

- A. Non-Duplication: In determining lot and yard requirements, no area shall be counted as accessory to more than one (1) structure and no area necessary for compliance with the space requirements for one (1) building or use shall be counted in the calculation or requirement for any other building or use.
- B) Front and Side Yard Uses: Every part of every front, side or rear shall be clear of any structure.

### Section 3.05 - Lot-Building Relationship

Hereafter, every building erected, altered or moved shall be located on a lot of records as defined herein, and except in the case of an approved multiple development, there shall be no more than one (1) principal building and its permitted accessory structures located on each lot in any residential district.

### Section 3.06 - Lot Width To Depth Relationship

Any lot created after the date of adoption of this Ordinance shall have minimum dimensions at least as deep as wide. Maximum dimensions shall be no more that four (4) times as deep as wide.

ARTICLE 4

SCHEDULE OF DISTRICT REGULATIONS

Section 4.01 - Kinds of Districts

For the purpose of this Ordinance, all of the unincorporated area of Evangeline Township is hereby divided into the following Zoning Districts, the location of which Districts is shown on the accompanying Zoning Map of Evangeline Township.

- |                               |     |
|-------------------------------|-----|
| A. Residential                | R-1 |
| B. Medium Density Residential | R-2 |
| C. High Density Residential   | R-3 |
| D. Mobile Home Parks          | R-4 |
| E. Commercial                 | C-1 |
| F. Industrial                 | I-1 |
| G. Agricultural               | A-1 |
| H. Recreational               | R-C |

Section 4.02 - Residential, R-1

- A. Purpose: The regulations of this district are designed to preserve a predominantly rural character in those areas fit for low density residential use because of the limited ability of soils to absorb sewage waste from individual septic tanks and to supply safe water from wells. Other limited residential and public uses are permitted via the special use permit procedure in order to insure compatibility with residential uses in the district
- B. Use Regulations: Land, buildings, and structures, erected, altered, and/or used, shall be for the following purposes only:
1. Detached one-family and two-family dwellings.
  2. Accessory uses customarily incidental to the preceding listed permitted uses.
  3. Home occupations as defined in Section 2.01A Part 24 of this Ordinance.
  4. Subdivisions and condominium projects which meet the density, lot area and setback requirements of this Ordinance, provided that when more than four lots platted under the subdivision control act, P.A. of 1967 or any condominium projects

regulated under the Michigan Condominium Act, P.A. 59 of 1978, are proposed, they shall require site plan approval pursuant to the requirements of Articles 8 and 9 of this ordinance prior to construction.

5. Special uses may be authorized in this district provided that an application is submitted for a Special Use Permit and is approved in accordance with procedures, provisions and standards of Articles 7, 8 & 9 of this Ordinance. Special uses include the following: Parks, Playgrounds and other recreational facilities, churches, schools, libraries, clinics, convalescent homes, and day care centers.

B. Size of Premises

1. Every parcel of land upon which a Single family dwelling is hereafter erected shall contain not less than 14,000 square feet, and not less than 28,000 square feet for a two-family dwelling.
2. The minimum lot line per dwelling unit here after erected, abutting on a highway, private right-of way, lake, or river, shall be one hundred (100) feet in width.
3. The floor area of every single-family dwelling hereafter erected shall be greater than seven hundred twenty (720) square feet. In cases where dwelling structures contain a full basement, the minimum floor area shall be six hundred and fifty (650) square feet.
4. Every two-family dwelling hereafter erected shall contain not less than thirteen hundred (1300) square feet of floor area.

D. Height Regulations.

1. No building shall exceed thirty (30) feet in height.

E. Setback and Yard Requirements

1. Front Yard Setback - The Front Yard Setback shall be not less than twenty (25) feet.
2. Side Yard Setback - The Side Yard Setback shall be not less than ten (10) feet.
3. Rear Yard Setback - The Rear Yard Setback shall be not less than twenty (20) feet.

Section 4.03 - Residential, R-2

- A. Purpose - The purpose of this zone district is to provide a stable and sound environment for single family detached dwellings in a moderately dense setting. This will be achieved by restricting uses and activities which are not appropriate in such an area. This zone district will be located at the fringes of

higher density development and shall be served by an approved water and primary and secondary sewage systems.

- B. Use Regulations - Land, buildings, and structures hereafter erected, altered and (or) used shall be for the following purposes only:
1. Detached single family or two-family dwelling units.
  2. Accessory uses customarily incidental to the preceding listed permitted uses.
  3. Special uses may be authorized in this district provided that an application is submitted for a Special Use Permit and is approved in accordance with procedures, provisions and standards of Articles 7, 8 and 9 of this Ordinance. Special uses include the following: Parks, Playgrounds and other recreational facilities, churches, schools, libraries, convalescent homes, and day care centers.
- C. Size of Premises
1. Every parcel of land upon which a single-family dwelling is hereafter erected shall contain not less than 11,000 square feet, and not less than 22,000 square feet for a two-family dwelling.
  2. The minimum lot line per dwelling unit here after erected, abutting on a highway, private right-of way, lake, or river, shall be one hundred (100) feet in width.
  3. The floor area of every single-family dwelling hereafter erected shall be greater than seven hundred twenty (720) square feet. In cases where dwelling structures contain a full basement, the minimum floor area shall be six hundred and fifty (650) square feet.
- D. Height Regulations.
1. No building shall exceed thirty (30) feet in height.
- E. Setback and Yard Requirements
1. Front Yard Setback - The Front Yard Setback shall be not less than twenty (25) feet.
  2. Side Yard Setback - The Side Yard Setback shall be not less than ten (10) feet.
  3. Rear Yard Setback - The Rear Yard Setback shall be not less than twenty (20) feet in depth.

- A. Purpose - The purpose of this zone district is to provide a stable and sound environment for multiple family dwelling units. This zoning district will allow a choice of dwelling unit types in Evangeline Township, and will encourage developers to be more imaginative and creative in their design of living areas. It is also the purpose of this zone district to achieve the following:
1. To provide a more desirable living environment by preserving the natural characteristics of open fields, stands of trees, flood plains, bodies of water, and similar natural assets.
  2. To encourage the provision of open space and the development of recreational facilities in a central location, within reasonable distance of all dwelling units.
  3. To allocate lands within the township where developers can create a development which accommodates dwelling units with shared open spaces and recreation areas.
  4. To encourage variety in the physical development of the township by providing a mixture of housing types and to insure the continued desirability and stability of the township.
- B. Use Regulations - Land, buildings and structures, erected and (or) altered shall be for the following purposes only:
1. Multiple family dwelling units
  - 2) Playgrounds, parks, tot lots, open spaces and other recreational uses, either enclosed or in the open, for the use of occupants only.
  3. Accessory uses customarily incidental to the preceding listed permitted uses, but not limited to, off-street parking, as required by provisions of this Ordinance.
- C. Area Regulations.
1. Front Yard Setback - There shall be a Front Yard Setback of at least forty (40) feet.
  2. Side Yards Setback - There shall be a minimum Side Yard Setback of thirty (30) feet.
  3. Rear Yard Setback - There shall be a minimum Rear Yard Setback of thirty (30) feet.
  4. Not more than fifteen (15%) percent of each parcel in this zoning district (R-3) may be occupied by impervious surfaces.
  5. Not more than five (5) dwelling units per net acre shall be permitted in this zoning district.

6. Each dwelling unit in this zoning district shall contain a minimum of six hundred fifty (650) square of floor area.
7. Lot Area - Minimum lot area of twenty (20) acres shall be required for this zoning district.

D. Other Development Regulations

1. Maximum building height not to exceed thirty,(30) feet.
2. The horizontal distance measured in feet between parallel or nearly parallel elements of buildings forming courts and courtyards shall be not less than twice the height of the taller building measured in feet.
3. Not less than two (2) off-street parking spaces shall be required for each dwelling unit. Such parking shall be so placed so as not to interfere with any recreation or service area and shall not be less than twenty-five (25) feet from any property lines or street right-of-way lines.
4. All areas provided for use by vehicles shall be surfaced with bituminous asphalt, concrete, grasscrete or similar materials.
5. Areas for loading and unloading delivery trucks and other vehicles and for refuse collection service, fuel and other services shall be provided and shall be adequate in size and shall be so arranged that they may be used without blockage or interference with the use of the access way or automobile parking facilities.
6. Provisions shall be made for safe and efficient ingress and egress to the public streets and highways servicing this Zoning District without undue congestion or interference with normal traffic flow.
7. All utility lines (power, telephone, water, gas, cable TV) serving structures in this Zone shall be placed underground
8. The developer shall where possible, preserve or incorporate existing natural features such as woods, streams and open spaces which add to the overall quality of the development of the area.
9. The developer is encouraged to provide community areas, laundry facilities, playground and tot lots, and other services necessary for the comfort and convenience of the residents.
10. A Site Plan shall be submitted and a approved by the Planning Commission as per provisions Article 8 of this Ordinance for each multiple family development or other permitted use in

this Zoning District.

Section 4.05 - MOBILE HOME PARKS, R-4

- A. Purpose: This district is established to provide for development of areas for manufactured housing and mobile homes where the necessary services are available for affordable and healthful neighborhoods that are more dense than any other permitted in the township but which are still developed so as to maintain the character and preserve the environmental quality of the township.
- B. Use regulations - Mobile homes, modular homes, manufactured homes and site constructed single family homes are permitted.
- C. Standards - All mobile home parks shall conform with the use and structure requirements of this Ordinance and with all site development requirements of P.A. 96 of 1987, the Mobile Home Commission Act, in addition, a twenty-five (25) foot front yard setback and a twenty (20) foot side and rear yard setback shall be maintained between the lot lines and any principal structure. All trees greater than five (5) inches in diameter shall be maintained with the side and rear yards and any site development practices which result in the death of such trees (such as from scarring or ground compaction) shall require replacement of such trees one for one with comparable species not less than two (2) inches in diameter within two (2) months of removal of such dead or dying trees.
- D. Not more than thirty (30%) percent of any parcel in this zoning district may be occupied by impervious surfaces.
- E. A Site Plan shall be submitted and approved by the Planning Commission as per provisions Article 8 and 9 of this Ordinance for any use in this District.

Section 4.06 - Commercial, C-1;

- A. Purpose - It is the intent of this district to provide for a variety of business and office uses in clustered functional centers located near major arterial streets in a limited number of locations in order to avoid strip, and spot commercial development, lessen congestion on public streets, protect adjacent noncommercial land uses, and to promote the economic viability of commercial areas.
- B. Use Regulations - Land, buildings and structures, erected and (or) altered shall be for the following purposes only:
  - 1. Stores and shops for the conduct of generally recognized retail businesses when conducted within buildings having a roof and totally enclosed by walls.
  - 2. Personal service shops, such as barber shops, beauty parlors shoe and tire repair shops, laundry and dry cleaning pickup

shops.

3. Professional offices
  4. Banks, restaurants, dressmaking, tailoring, millinery and photographic.
  5. Public owned buildings and public utility buildings.
  6. Telephone exchanges and substations without service or storage yards, community clubs, fraternal lodges, and similar civic and social organizations, when not operated for profit.
  7. Accessory uses customarily incidental to any of the above permitted or approved uses.
- C. A Site Plan Review shall be conducted for any permitted use in this Zoning District in accordance with Article 7 of this Ordinance.
- D. Size of Premises.
1. There shall be a one (1) acre minimum lot area with a minimum lot width of two hundred (200) feet on any highway or private right-of-way in this zoning district.
- E. Setbacks and Yards
1. Front Yard Setback - The Front Yard Setback shall be not less than Fifty (50) feet.
  2. Side Yards - The Side Yard Setback shall be not less than ten (10) feet except where buildings are abutted and a suitable driveway of twelve (12) feet (minimum) is provided at one side of each building.
  3. Rear Yards - Every building hereafter erected (or altered) shall provide a rear yard no less than ten (10) feet in depth and such yard shall be kept open and unobstructed for access of firefighting equipment.
- F. Height of Building - No building shall hereafter be erected (or altered) exceeding a height of thirty (30) feet.
- G. Floor Area - There shall be no minimum floor area requirement in this zone district.

Section 4.07 - Industrial, I-1

- A. Purpose - The intent of this district is to provide for a variety of industrial and limited commercial uses in areas of the township affording direct access to all weather highways, adequate storm drainage, and existing power, water, and waste

water disposal. Such industrial areas should be free of incompatible uses designed so as not to harm adjacent conforming uses, and provided with adequate land for expansion. Since such property is limited in availability, it will be conserved and restricted for use for industrial purposes in the interest of the community's economic growth and development.

- B. Use Regulations - Land, buildings and structures, HEREAFTER erected, altered or used, shall be for the following purposes only:
1. Warehouses and storage buildings and yards.
  2. Lumber Yards.
  3. Commercial laundry and dry cleaning establishments.
  4. Establishments contained within a building which are operated and used for fabricating, assembling and development activities.
- C. A development plan shall be submitted and a site plan review conducted for each permitted use in this zoning District in accordance with Articles 8 and 9 of this Ordinance.
- D. Size of Premises
1. Every parcel of land upon which a building is hereafter erected shall contain no less than twenty thousand (20,000) square feet of area, and shall be no less than one hundred (100) feet in width throughout its depth.
- E. Setback and Yards
1. Front Yard Setback - The Front Yard Setback shall be not less than twenty (25) feet.
  2. Side Yard Setback - The Side Yard Setback shall be not less than ten (10) feet in width.
  3. Rear Yard Setback - The Rear Yard Setback shall be not less than ten (10) feet in depth. Such yard shall be kept open and unobstructed for access of firefighting equipment.
- F. Height of Building - No building shall be hereafter erected (or altered) exceeding a height of thirty (30) feet.

Section 4.08 - Agricultural District, A-1

The following provisions shall apply to all land and or buildings in the Agricultural District, A-1:

- A. This district is primarily intended for agricultural operations and the limited development of very low density single family

dwelling. It is further the purpose of this district to conserve the expenditure of public funds for improvements and services, to preserve open space, to meet the needs of the states citizens for feed, fiber, and other natural resources and to preserve the essential characteristics and economic value of the district. Such areas are not well suited for the development of residential neighborhoods nor are they expected to be provided with urban type public services.

- B. Use Regulations - Land, buildings and structures, erected, altered or used, shall be for the following purposes only:
1. Farms, including both general and specialized farming, together with farm dwellings and buildings, and other installations useful to such farms.
  2. Up to Two (2) single family dwellings on each lot. Provided both can be located to meet the acreage, floor area, frontage & setback requirements of this district
  3. Accessory uses customarily incidental to the preceding listed permitted uses.
  4. Home occupations as defined in Section 2.01 A Part 24 of this Ordinance.
  5. Special uses that may be authorized in this zoning district include the following uses, provided, that an application is submitted for a Special Use Permit and approved in accordance with the procedures, provisions and standards of Articles 7, 8 and 9 of this Ordinance.
    - a) Religious institutions, cemeteries, and institutions for human care.
    - b) Camps, clubs, campgrounds, provided, no commercial activity shall be conducted on the premises.
    - c) Clinics, sanitariums, convalescent homes, and nurseries.
    - d) Golf courses, riding stables and publicly owned recreation areas.
    - e) Parks, playgrounds, playfields, museums, libraries, fire stations, schools, community centers and other public buildings owned and operated by a governmental agency or a nonprofit neighborhood group.
    - f) Development activities regulated under provisions of the Subdivision Control Act or Condominium Control Act.
    - g) All commercial natural resource extractions, mining or relocation, including sand or gravel, but specifically exempting cases where land grades are changed in

connection with erection or construction of any roads.

C. Size of Premises

1. Every parcel of land designated as Class I Soils by definition upon which a single-family dwelling is hereafter erected shall contain not less than one (1) acre per dwelling. All other parcels of land upon which a single family dwelling is hereafter erected shall contain not less than three (3) acres per dwelling.
2. The minimum lot line abutting on a highway, private right of way, lake, or river, shall be two hundred (200) feet frontage per dwelling.
3. The floor area of every single-family dwelling hereafter erected shall be greater than seven hundred twenty (720) square feet. In cases where dwelling structures contain a full basement, the minimum floor area shall be greater than six hundred and fifty (650) square feet.

D. Setback and Yard Requirements.

1. Front Yard Setback - The Front Yard Setback shall be not less than twenty (25) feet.
2. Side Yard Setback - The Side Yard Setback shall be not less than ten (10) feet in width. For Farm Buildings, there shall be a minimum side yard of fifty (50) feet.
3. Rear Yard Setback - The Rear Yard Setback shall be not less than twenty (20) feet in depth. For Farm Buildings, there shall be a minimum rear yard of fifty (50) feet.

D. Height Regulations - No structure shall exceed thirty (30) feet in height. Farm buildings are exempted from this provision.

Section 4.09 - Recreational District, R-C

- A. This district includes only those lands in the Township which are public access and park areas, owned by the public, either State, County, or Township. The purpose is to preserve State, County, and Township Property as places for public use.

ARTICLE 5

SUPPLEMENTAL REGULATIONS

Section 5.01 - Mobile Home As A Dwelling Unit

- A. Mobile homes are permitted where they meet all requirements of the district in which they will be located and further meet standards as adopted by the Department of Housing and Urban Development, those being 24 CFR 3280 as amended.

- B. A mobile home shall be installed pursuant to the manufacturer's setup instructions and shall have a wall of the same perimeter dimensions of the mobile home and constructed of such materials and type as required in the applicable building code for single-family dwellings and shall be secured to the premises by an anchoring system or device compatible with those required by the Michigan Mobile Home Commission. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the Building Code applicable within the Township.
- C. Construction of, and all plumbing, electrical apparatus, and insulation within and connected to, said mobile home shall be of a type and quality conforming to the United States Department of Housing and Urban Development, Mobile Home Construction and Safety Standards, 24 CFR 3280, as amended.

#### Section 5.02 - Mobile Home Parking

It shall be unlawful for any person to park, or cause to be parked, any mobile home or house trailer on any street, alley, highway or other public place in the unincorporated portion of the township for storage, use as a dwelling or for overnight stops outside of a licensed mobile home park.

#### Section 5.03 - Mobile Home as Temporary Dwelling Unit

In Residential zones shall be lawful for any person or persons to occupy a mobile home or house trailer as a single family dwelling while such person or persons are building a permanent residence, provided:

- A. Such mobile home meets the square footage requirements of this Ordinance and meets the provisions of Section 5.01 of this Ordinance.
- B. That the parcel contains sufficient size and frontage to allow the parcel to be split into two lots.
- C. Each structure shall be located on the parcel so as to meet all setback requirements should the parcel be split.

Permission to occupy a mobile home while the occupants are building a permanent residence must be obtained from the Zoning Administrator.

#### Section 5.04 - Screening Between Land Uses

Screening shall be required and maintained for any Commercial C-1, Industrial I-1, or Mobile Home Park R-4 use that abuts a residential or agricultural use on either side yard or rear yard as per provisions of Section 9.04 of this Ordinance.

#### Section 5.05 - Vehicular Parking Space and Access

For each dwelling, business, commercial, industrial, or similar building

hereafter erected or altered, and located on a public highway in the township, including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable off street parking in accordance with the following schedule:

- A. Residential Uses: Two (2) spaces per dwelling unit
- B. Commercial, Service and Office Uses: Two parking spaces plus three (3) square feet of parking per square foot of gross floor area.
- C. Industrial Uses: Two parking spaces plus (1) square foot of additional parking for every square foot of gross floor area.

In case of a use not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the most similar use listed.

Exits and entrances may be combined or provided separately. Approval of location of such exit and entrance shall be obtained in writing from the County Road Commission and/or Michigan Department of Transportation which approval shall include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.

#### Section 5.06 - Grading and Lot Improvements

No property shall be altered or improved so as to increase the discharge of surface water runoff onto adjacent properties or directly into any lake, river or stream.

#### Section 5.07 - Signs, Permanent

- A. The regulations set forth herein shall apply and govern signs in zoning districts. No sign shall hereafter be erected, moved, or structurally altered unless it is in conformity with the following provisions and unless a permit is obtained for such use.
  - 1. Signs not exceeding four (4) square feet in area may be utilized for traffic regulation or direction.
  - 2. No sign shall be erected upon the inside of the curve of a street which may cause any interference to sight distance in the opinion of the Zoning Administrator.
  - 3. No sign shall be so placed as to interfere with visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection.
  - 4. No sign shall be lighted internally nor illuminated by a flashing light.
  - 5. All illumination, unless otherwise approved by the Planning

Commission, shall not have the source of light visible beyond the property lines of the parcel upon which the sign is located.

6. If any provisions of any other Ordinance, statute or law of Charlevoix County or the State of Michigan impose greater restrictions than herein set forth, then the provisions of such Ordinance or statute shall control.
- B. The following signs are permitted in the following zoning districts:
1. DISTRICT: R-1; SIGN TYPE: On-premise sign advertising a public or quasi-public use. Such signs shall not exceed twelve (12) square feet in area. For Home Occupations no more than one non-illuminated nameplate not exceeding four (4) square feet in area containing the name of the person and occupation shall be allowed. Each sign shall be located at least twenty (20) feet from road right-of-way. Where applicable there shall be no more than one (1) sign for each street upon which the property faces.
  2. DISTRICT: R-2; SIGN TYPE: A non-illuminated freestanding sign advertising a recorded subdivision or development. Such sign shall not exceed twenty-four (24) feet in area and shall be placed no closer than ten (10) feet to street right-of-way line.
  3. DISTRICT: R-3; SIGN TYPE: A non-illuminated, freestanding sign advertising a recorded subdivision or development. Such sign shall not exceed twenty-four (24) square feet in area and shall be placed no closer than ten (10) feet to a street right-of-way line.
  4. DISTRICT C-1; SIGN TYPE:
    - a) On premise sign advertising a public or quasi-public use. Such signs shall not exceed twelve (12) square feet in area. There shall be no more than one (1) sign for each street upon which the property faces.
    - b) On premise sign advertising the permitted professional or office use. Such sign shall not exceed six (6) square feet and, if illuminated, the light source may not be visible from adjacent properties. There shall be no more than one (1) such sign for each permitted use.
    - c) Freestanding directory signs advertising businesses or activities conducted, an area of interest, or a service available on the premises. Such signs shall not exceed twenty-four (24) square feet, and there shall be no more than one (1) sign for each street upon which the property faces. Such sign shall convey only identification of the permitted uses on the property on which the sign is

located.

5. DISTRICT: I-1; SIGN TYPE:

- a) Freestanding directory signs advertising businesses or activities conducted, an area of interest, or a service available on the premises. Such signs shall not exceed twenty-four (24) square feet, and there shall be no more than one (1) sign for each street upon which the property faces. Such signs shall convey only identification of the permitted uses on property on which the sign is located.
- b) Directory signs affixed to, or painted on, a building advertising businesses or activities conducted, an area of interest, or a service available on the premises. The total area of such signs shall not exceed twenty (20) percent of the area of the building face upon which it is mounted. In addition, the signs shall not exceed the maximum height limitations permitted in the zoning district. Where a sign projects more than three (3) inches from the face of a building, it shall be at least ten (10) feet above the ground at its lowest level.
- c) Signs advertising a general brand or product, an area of interest, a business conducted, or a service available, generally referred to as billboards. Such signs shall not exceed twenty-four (24) square feet in area, and they shall conform to the height, yard and setback requirements of the zone in which they are located. All such signs shall be three (3) feet or more above the ground. Further, such signs shall be spaced no closer than five hundred (500) feet to any other billboard on one (1) side of a street or road, or on opposite sides shall be no closer than five hundred feet laterally distant along the right-of-way from any other billboard and shall not be located closer than five hundred (500) feet from any major arterial intersection.

6. DISTRICT: A-1; SIGN TYPE:

- a) On-premise sign advertising a public or quasi-public use. Such signs shall not exceed twelve (12) square feet in area. There shall be no more than one (1) sign for each street upon which the property faces.
- b) On-premise sign advertising the permitted profession or office use. Such sign shall not exceed six (6) square feet and, if illuminated the light source may not be visible from adjacent properties.
- c) Freestanding directory signs advertising businesses or activities conducted, an area of interest, or a service available on the premises. Such signs shall not exceed twenty-four (24) square feet, and there shall be no more

than one (1) sign for each street upon which the property faces. Such signs convey only identification of the permitted uses on the property on which the sign is located.

- C. Application for a sign permit shall be made and submitted to the Zoning Administrator on appropriate forms furnished by the Administrator. A fee shall accompany the application, based on rates as established by the Township Board.

#### Section 5.08 - Lot Creation

No lot shall be created which does not meet the dimensional or area provisions of this Ordinance nor shall any lot be created which does not have an upland area suitable for development.

### ARTICLE 6

#### ENVIRONMENTAL PROVISIONS

#### Section 6.01 - Water Supply and Sewage Disposal Facilities

Every building hereafter erected, altered or moved upon any premises and used in whole or in part for dwelling, recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system, and with means for collecting and disposal without unacceptable risk of ground water contamination, of all human excreta and of all water carried domestic, commercial, industrial, and other wastes that may adversely affect health conditions. The written approval of such facilities by the District Department of Health No. #3, Charlevoix, shall be filed with application for a Zoning Permit as hereinafter provided.

#### Section 6.02 - Green Belt Zone Provision

Any land used abutting lake, river or stream within Evangeline Township shall have a Green Belt Zone which has a minimum depth of thirty five (35) feet. Vegetation shall remain in an undisturbed or natural state. Minimal selective pruning is allowed in order to afford a view of the water. No lawn shall be maintained between the Green Belt Zone and waters edge. Nor shall application of supplemental plant nutrients be allowed in the Green Belt Zone or between the Green Belt Zone and the waters edge.

#### Section 6.03 - Lot Coverage

A maximum of twenty (20%) percent lot coverage shall be allowed on any parcels within five hundred (500) feet of any lake, river or stream within Evangeline Township, except where a smaller lot coverage is required by this Ordinance.

#### Section 6.04 - Wetland Provision

No structure shall be placed in any lot adjacent to a lake, river or

stream deemed as a wetland by the Michigan Department of Natural Resources or U.S. Army Corp of Engineers if an upland alternative exist on said lot. In those cases where there is not upland alternative exist no structure shall be constructed until the landowner has complied with provisions of Article 8 of this Ordinance. Lot coverage in wetlands will be no greater than five percent (5%).

#### Section 6.05 - Setback Provision

On any lot with frontage on a lake, river or stream structures excluding a dock or pumphouse erected thereon shall be located so that it shall not be less than fifty (50) feet from the High Water Level Elevation. Any new septic tank or drain field shall be so located on the premises that any part shall be at least one hundred (100) feet distant from the High Water Elevation.

### ARTICLE 7

#### SPECIAL LAND USES

##### Section 7.01 - Purpose.

Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this Article shall be in addition to those required elsewhere in this Ordinance which are applicable to the special land use under consideration.

This Article hereby authorizes the Planning Commission to issue special land use permits, provided:

- A. The proposed use is one listed as a special land use for that district in which said use is proposed to be located.
- B. The Planning Commission insures before approving a special land use permit request that both:
  1. the standards of the district in which the special land use is to be located are fulfilled.
  2. the standards or other requirements of this Article are fully complied with.

##### Section 7.02 - Application Procedures.

An application for permission to establish a special land use shall be

submitted and acted upon in accordance with the following procedures:

- A. Applicant. Any person owning or having an interest in the subject property may file an application for one or more special land use permits provided for in this Ordinance in the zoning district in which the land is situated.
- B. Application. Applications for special land use permits shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Evangeline Township Board of Trustees to cover the costs of processing the application. No part of any fee shall be refundable.
- C. Required Information. Six (6) copies of an application for a special land use permit shall be presented to the Zoning Administrator and accompanied by the following documents and information:
  1. A special land use application form supplied by the Zoning Administrator which has been completed in full by the applicant.
  2. A site plan as per provisions of Article 8 of this Ordinance.
  3. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 7.03, and other standards imposed by the Ordinance affecting the special land use under consideration.
- D. Incomplete Application. An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.
- E. Others Having Interest. Any person which may be affected by a permit issued for a special land use may present any petition or document supporting his or her personal position, or that of a group, for or against an application made for a special land use permit. All such documents shall be submitted to the Zoning Administrator no later than twenty (20) days before the hearing at which the application will be considered.
- F. Hearing. After a preliminary review of the site plan and an application for a special land use permit, the Planning Commission shall hold a hearing on the site plan and special land use request. Notice of the hearing shall be given by mail or personal delivery to the owners of the property for which special land use permit approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Notice of the public hearing shall

also be published in a newspaper of general distribution in the county. Public notice shall be given not less than 20 days before the date of the public hearing on the application. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant or each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. Each notice given under this section shall:

1. describe the nature of the special land use request;
2. indicate the property which is the subject of the special land use request;
3. state when, where and at what time the public hearing on the special land use request will be considered; and
4. indicate when and where written comments will be received concerning the request.

G. As a result of the notice given above, a public hearing shall be held before a decision on a request for a special land use is made, with notification as provided in the same manner stated above at the initiative of either:

1. The Planning Commission;
2. Or upon the request of the applicant for a special land use permit;
3. Or a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use permit.

However, if the applicant at the time of filing the application or the Planning Commission prior to scheduling formal consideration of the application, requests a public hearing, only notification of the public hearing need be made, thereby skipping the publication of notice than an application for a special land use has been received.

H. Review and Approval. The review of an application and site plan requesting a special land use permit shall be made by the Planning Commission in accord with the procedures and standards specified in this Ordinance. If a submitted application and site plan do not meet the requirements of the Ordinance, they may not

be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with the Ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. A site plan and application for a special land use permit shall be approved if they comply in all respects with the requirements of this Ordinance and other applicable county, state or federal laws, rules or regulations. Approval and issuance of a special land use permit shall signify prior approval of the application and site plan, therefore including any modification and any conditions imposed where necessary to comply with this Ordinance. The site plan, as approved, and any statements of conditions and modifications shall become part of the special land use permit and shall be enforceable as such. The decision to approve or deny a request for a special land use permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify: the basis for the decision, any changes to the originally submitted application and site plan necessary to insure compliance with the Ordinance, and any conditions imposed with approval. Once a special land use permit is issued, all site development and use of land on the property affected shall be consistent with the approved special land use permit, unless a change conforming to Ordinance requirements receives the mutual agreement of the landowner and the Planning Commission and is documented as such.

- I. Issuance of a Special Land Use Permit. Upon approval by the Planning Commission, the Zoning Administrator shall issue a special land use permit to the applicant. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions and restrictions of any special land use permit and take any enforcement action necessary in the event of a violation of the special land use permit.
- J. Appeal. Within 15 days following the date of a decision on any special land use permit, an applicant or any aggrieved party, including governmental body or agency, may appeal the decision of the Planning Commission to the Zoning Board Of Appeals. Upon the filing of an appeal, the application, all relevant documents and testimony, and the findings and decision of the Planning Commission shall be transmitted to the Zoning Board Of Appeals.
- K. Decision. All decision of the Planning Commission and Board of Appeals relating to special land use applications, including the findings supporting any decision, shall be recorded in written form and retained as permanent records on file with the Zoning Administrator and a copy in the Office of the Township Clerk.

#### Section 7.03 - Basis of Determinations.

Prior to approval of a special land use application and required site plan, the Planning Commission shall insure that the standards specified

in this section as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

- A. General Standards. The Planning Commission shall review the particular circumstances of the special land use request under consideration in terms of the following standards, and shall approve a special land use request only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
1. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
  2. The special land use shall not inappropriately change the essential character of the surrounding area.
  3. The special land use shall not interfere with the general enjoyment of adjacent property.
  4. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
  5. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
  6. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential to the special land use under consideration.
  7. The special land use shall not place demands on public services and facilities in excess of current capacity.
  8. The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted Township Ordinance.
- B. Conditions. The Planning Commission may impose conditions with the approval of a special land use application and site plan which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this or other applicable township ordinances and regulations. Such conditions shall be considered an integral part of the special land use permit and approved site

plan and shall be enforced by the Zoning Administrator. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

- C. Performance Guarantee. In authorizing a special land use permit, the Planning Commission may require a performance guarantee as per Section 8.10 of this Ordinance.

#### Section 7.04 - Effective Date.

The special land use permit shall become effective when the application has been approved by the Planning Commission .

- A. A zoning permit shall not be issued until approval of such special land use permit by the Planning Commission .
- B. Until a zoning permit has been granted pursuant to the special land use permit, there shall be no construction or excavation on said land, nor shall use of the land be made toward the intended purposes of such special land use permit.
- C. Land subject to a special land use permit may not be used or occupied for purposes of such special land use until after a certificate of occupancy for same has been issued pursuant to the provisions of this Ordinance.

#### Section 7.05 - Permit Validity.

- A. Approval of a special land use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.
- B. In instances where development authorized by a special land use permit has not commenced within one year from the date of issuance or the last date of review authorized by this subsection, the Planning Commission shall review the permit in relation to the applicable standards and requirements of this Ordinance. Upon a finding that there has been a change in conditions on the property or the surrounding area or in provisions of this Ordinance applicable to the special land use permit under review, such that the permit is no longer in conformance with the requirements of this Ordinance, the permit shall become null and void. Where it is determined that such permits are in conformance with the provisions of this Ordinance, and there has not been a change in conditions affecting the validity of the permit, the special land use permit shall remain valid, subject to periodic review in accord with the provisions of this subsection.

Section 7.06 - Requirements for Compliance

It shall be the duty and obligation of the owner(s) and occupant(s) or operator(s) of land and uses subject to a special land use permit and approved site plan therefore, that the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance. Failure thereof shall be violation of this Ordinance and subject to the penalties and remedies provided in Article 9 and the continuance thereof is declared to be a nuisance per se.

Section 7.07 - Once Granted a Special Use Permit, the Use Is a Permitted Use.

Any use for which a special land use permit has been granted shall be deemed a conforming use permitted in the district in which such use is located provided:

- A. such permit was issued in conformity with the provisions of this Ordinance, and
- B. such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the special land use permit shall have been explicitly granted, and
- C. such permit authorizes a use which is subsequently built, operated and maintained in compliance with the Ordinance, the special use permit, and all conditions established with its approval.

Section 7.08 - Specific Requirements.

The foregoing general requirements are basic and apply to all special land uses. The specific requirements in the following section (or Article) relating to particular use(s) are in addition to, and shall be required, in all applicable situations.

## ARTICLE 8

### SITE PLAN REVIEW

#### Section 8.01 - Purpose

Site Plan Review and approval of all development proposals listed below is required by the provisions of this Section. The intent of this Section is to provide for consultation and cooperation between the developer and the Planning Commission so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding land uses consistent with the requirements and purposes of this Ordinance. Through the application of the following provisions, Evangeline Township will develop in an orderly fashion.

#### Section 8.02 - Site Plan Review in Use Districts Required

A site plan shall be submitted to the Planning Commission for approval and shall be required in the following situations:

- A. Any use or development for which the submission of a site plan is required by any provision of this Ordinance.
- B. Any development, except single-family platted residential, for off-street parking areas are provided as required in this Ordinance.
- C. Any use in a multifamily or nonresidential district lying contiguous to or across a street from a single-family residential district and/or use.
- D. Any use except single-family residential which lies contiguous to a major thoroughfare or collector street.
- E. All Special Land Uses in all districts such as, but not limited to: churches, schools, public facilities, and similar uses.
- F. All single-family residential uses subject to the requirements of the Subdivision Control Act of 1967 as amended (MCLA 560.101 et seg).
- G. All site condo and condominium subdivisions developed pursuant to the Condominium Act (MCLA 559.101 et seg).
- H. All other developments in which ownership interests in land are transferred for the purpose of development of a physical structure and which do not fall under the requirements of the Subdivision Control Act of 1967 as amended (MCLA 560.101 et seg).
- I. All developments in wetlands or 100 year floodplains, including individual single family homes for which a permit is required by the Michigan Department of Natural Resources.

Section 8.03 - Application for Site Plan Review

An application for Site Plan Review shall be submitted to the Planning Commission. The detailed site plan presented for consideration shall contain all information required in this Ordinance.

- A. Each submittal for Site Plan Review shall be accompanied by an application and site plan in the quantities specified in Section 8.06. The application shall at a minimum, include the following information:
1. The applicant's name, address, and phone number in full.
  2. Proof of property ownership, and whether there are any options on the property, or any liens against it.
  3. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
  4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).
  5. The address and or parcel number of the property.
  6. Name and address of the developer (if different from the applicant).
  7. Name and address of the engineer, architect and/or land surveyor.
  8. Project title.
  9. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the Ordinance.
  10. A vicinity map drawn at a scale of 1"=2000' with northpoint indicated.
  11. The gross and net acreage of all parcels in the project.
  12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
  13. Project completion schedule/development phases.
  14. Written statements relative to project impacts on existing

infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.

- B. The site plan shall consist of an accurate, reproducible drawing at a scale of 1"=100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:
1. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
  2. Existing topographic elevations at two foot intervals, proposed grades and direction of drainage flows.
  3. The location and type of existing soils on the site and any certifications of borings.
  4. Location and type of significant existing vegetation.
  5. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands.
  6. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building and typical elevation views of proposed structures.
  7. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, lightpoles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
  8. Location of existing public roads, right-of-way and private easements of record and abutting streets.
  9. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.
  10. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
  11. Location, size, and characteristics of all loading and unloading areas.
  12. Location and design of sidewalks, walkways, bicycle paths and

areas for public use.

13. Location of water supply lines and/or wells, including the fire hydrants and shut off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, cleanout locations, connection points and treatment systems, including septic systems if applicable.
14. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.
15. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.
16. Location, size and specifications of all signs and advertising features with cross sections.
17. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
18. Location and specifications for all fences, walls, and other screening features with cross sections.
19. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.
20. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
21. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, slats, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
22. Identification of any significant site amenities or unique natural features.
23. Identification of any significant views onto or from the site to or from adjoining areas.
24. The Planning Commission may require a scale models of proposed development which are of a large magnitude or with unusual characteristics.
25. North arrow, scale and date of original submittal and last revision.

26. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan. This requirement may be waived by the Planning Commission in cases where Single Family residences being constructed on wetlands.

27. Other information deemed necessary by the Planning Commission

#### Section 8.04 - Site Plan Review and Approval

The Planning Commission shall review and approve, review and approve with conditions, or review and deny all site plans submitted under this Ordinance. Each site plan shall comply with the "Standards for Granting a Site Plan Approval" as described in Section 8.07 of this Ordinance. Each action taken with reference to site plan review shall be duly recorded in the minutes of the Planning Commission. The Zoning Administrator shall forward any site plan received to the Planning Commission for review. Prior to any final decision, the Planning Commission shall seek the recommendations of other Federal, State, County or other local groups or agencies where applicable.

- A. All site plans shall be acted upon within sixty (60) days of receipt by the Planning Commission of a complete application and site plan meeting the requirements above. Before final approval of any site plan, the petitioner shall apply for the appropriate Township, County, State and/or Federal permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

#### Section 8.05 - Procedures for Submission and Review of Application

- A. Submission requirements. The applicant shall complete and submit the required number of copies of an application for Site Plan Approval, site plans, and other information where applicable. Compliance with the requirements of the Zoning Ordinance is mandatory. The applicant or his/her representative must be present at each scheduled review or the matter will be tabled for a maximum of two consecutive meetings due to lack of representation. The procedure for processing major project site plans includes three phases: conceptual review via a pre-application conference, preliminary site plan review and final site plan approval.
- B. Pre-application conference. During this conceptual review phase, a generalized site plan is presented by a prospective for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Planning Commission and such other Township agency representatives as appropriate. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or

steps that might have to be followed, such as requests to the Board of Appeals for a variance. There is no charge or fee to the applicant for this meeting.

- C. Preliminary Site Plan Approval. The second phase is called Preliminary Site Plan Approval. At this step a preliminary site plan meeting the submittal requirements of this Ordinance is reviewed by the Planning Commission and the changes necessary, if any, for final site plan approval are indicated in writing to the applicant.
- D. Final Site Plan Review. Final Site Plan approval shall be by the Planning Commission. The Planning Commission shall indicate in writing that all requirements of the Ordinance including those of other reviewing agencies have been met including any conditions that may be necessary. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.

#### Section 8.06 - Distribution of Required Copies and Action Alternatives

Where Site Plan Review is required by this Ordinance, an applicant for Site Plan Approval shall complete and submit 6 copies of an Application for Site Plan Approval, site plans, and other information where applicable.

- A. The Application for Site Plan Approval is obtained from the Planning Commission. The applicant is asked to keep one copy for his/her records. The applicant shall return the original and five (5) copies of the application to the Planning Commission at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission for the purpose of preliminary site plan review.
- B. Application fees as found in the Evangeline Township Fee Resolution must be paid when the application is submitted and sufficient escrow accounts must be established to cover the projected review costs.
- C. The applicant shall take one (1) copy of the Application for Site Plan review and two (2) copies of the site plan to the following agencies:
  - 1. Charlevoix County Soil & Water Conservation District.
  - 2. Charlevoix County Road Commission.
  - 3. Charlevoix County Drain Commission.
  - 4. District Health Department # 3.

5. Charlevoix County Building Department.
6. All other Agencies with jurisdiction in regards to a particular project.

These agencies will keep the application and one (1) copy of the site plan. Upon delivery of the application and site plans; the applicant shall obtain a receipt from the agencies as proof of delivery or a stamped, signed site plan indicating no comment. One (1) copy of the site plan, one from each agency, should be returned, with comments from each agency, if any, to the Planning Commission. Without these copies, the site plan will not be processed.

- D. An application for Site Plan Reviews will be placed on the agenda of a meeting of the Planning Commission for discussion and action only after receipt of comments from the above agencies, unless the site plan has been in possession of the reviewing agencies for thirty (30) days without review and/or comment.
- E. The Planning Commission will consider all applications for site plan review submitted to it for approval, revision, or disapproval, at a scheduled meeting.:
  1. Upon determination of the Planning Commission that a site plan is in compliance with the Zoning Ordinance and other plans or regulations, it shall be so indicated on the site plan.
  2. Upon determination of the Planning Commission that a site plan is in compliance, except with minor revisions, said changes shall be so indicated. When these changes have been adequately addressed, the petitioner shall resubmit the site plan to the Planning Commission for Final Site Plan Approval.
  3. If extensive revisions to the site plan are necessary to meet the Zoning Ordinance, and other applicable plans and regulations, the site plan shall be disapproved and the applicant requested to prepare an alternate site plan. In this case, "DISAPPROVAL" shall be written on the plan and reasons for disapproval indicated in the Planning Commission's resolution.
- F. When a site plan is reviewed and approved or disapproved by the Planning Commission and all steps completed, three (3) copies of the site plan will be marked by the Planning Commission for the following distribution:
  1. One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission including any conditions of approval.
  2. One (1) copy forwarded to the Planning Commission Secretary for filing.

3. One (1) copy forwarded to the Zoning Administrator.
- G. Upon Final Site Plan Approval by the Planning Commission, a Zoning Permit may be obtained.
  - H. Failure to initiate construction of an approved site plan within 365 days of approval shall require the applicant to appear before the Planning commission and demonstrate why the approval should not be revoked. After a hearing the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:
    1. An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency.
    2. Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them.
    3. A change in state law, local charter, or other local Ordinance affecting the previous approval has occurred;
    4. Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.
  - I. Thirty days prior to expiration of an approved site plan pursuant to Section 8.06, an applicant may make application for a one year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.
  - J. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The County Building Department shall also be notified to withhold or revoke any building permit until a new site plan is approved.
    1. Any subsequent resubmittal shall be processed as a new request with new fees, except for minor amendments pursuant to section 8.12 below.

#### Section 8.07 - Standards for Granting Site Plan Approval

- A. Each site plan shall conform to all applicable provisions of this Zoning Ordinance and the standards listed below:
  1. All elements of the site plan shall be harmoniously and

efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

2. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
3. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties. Run-off from such sites must run thru detention and settling basins before being discharged off site. Such basins shall have the storage capacity to handle all stormwater runoff off from a two and one half (2.5) inch in a twenty-four (24) hour period rainfall event.
4. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
5. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
6. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
7. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
8. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height.
9. Exterior lighting shall be arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets nor add to the visual light pollution of adjacent properties.
10. All areas provided for use or parking by vehicles shall be surfaced with bituminous asphalt, concrete, grasscrete or

similar materials.

11. Lots on lands developed pursuant to the Subdivision Control Act, P.A. 277 of 1967 and lands developed pursuant to the Condominium Act, P.A. 59 OF 1978, shall conform with the following requirements:
  - a. All streets shall be paved and constructed to meet or exceed Charlevoix County Road Commissions Standards and Specifications.
  - b. Sanitary sewers providing a minimum of primary and secondary treatment shall be required for subdivisions where lot sizes are three (3) acres or less or in condominium projects where more than one dwelling unit per three (3) acres is planned. In situations where treated effluent shall be discharged directly into a surface water body additional treatment may be required. In no case shall effluent be allowed to degrade the surface or groundwater resources.
  - c. All utility lines (power, telephone, water, gas, cable TV) serving these parcels shall be placed underground.
12. For all proposed natural resource extraction, mining, or relocation operations the following requirements shall be established:
  - a. A performance guarantee pursuant to Section 8.10 shall be required for all proposed projects three (3) acres or larger.
  - b. All excavations or extractive work shall maintain a minimum perimeter setback of 50 feet from road right-of-way and all property lines. Controlled work in the setback area may be permitted if spoils, over burden, or other earth fill material replaces the resources removed as the work progresses (in case of a pit).
  - c. The working face of an excavation shall maintain slope angles sufficient to prevent sloughing, erosion, or earth disturbances of any kind on adjoining properties.
  - d. Sufficient native topsoil shall be left on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless a guaranteed replacement plan is approved.
  - e. Fences, berms, walls, and visual screening devices shall be required as per Article 9 of this Ordinance.
  - f. The operation of mechanical equipment of any kind may be limited by the day and/or hour if the site is in a location that directly impacts homes and/or residential

zoned lands, by creating an operating nuisance.

- g. All structures, equipment and machinery of any kind shall be considered temporary and shall be removed from the site upon completion of the terms of the Special Use Permit.
  - h. Air pollution, noise, and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.
  - i. If necessary to protect the area, access routes serving the site may be limited as stated on the permit or as illustrated on the site plan, it being the intent to minimize the exposure of residential streets to earth moving vehicles.
  - j. The location of earth stockpiles, machinery, equipment and any buildings, shall be approved by permit but only in terms to protect adjoining properties, and obtain the optimum use of the site. Topography, vegetation, screening devices, and physical isolation from residential properties shall be considered in locating site facilities and earth stockpiles.
  - k. The final grading and land reclamation plan for each permitted excavation shall be in general accordance with the character of uses and natural features on adjoining lands to the extent practical. All reclamation, grading and seeding practices shall be done per USDA Soil Conservation Service standards and specifications.
  - l. Specific site reclamation requirements may vary somewhat depending on the location of the site in terms of its exposure to view, physical isolation, influence on residential areas, sensitivity to the natural environment and/or reuse potential (or plan). The Planning Commission shall rule on such variations with reasons stated.
13. For recreational uses that have inland lake frontage, the following limitations shall be established:
- a. Camping is not permitted except as an accessory function of a larger resort complex.
  - b. Vehicle parking is permitted only as necessary for reasonable access to the location.
  - c. If a lakefront park or playground is being developed as part of a subdivision, plat, condominiums or any form of development a minimum of thirty (30) feet of usable shoreline per off-lake lot shall be used as a guideline.

- d. Boat docks shall not exceed on (1) per 150 feet of lot width. The location of any dock must respect adjoining property uses.
  - e. Not more than three (3) motor powered crafts shall be moored per 150 feet of lot width.
  - f. Only one (1) raft shall be allowed per 150 feet of lot width.
  - g. Plans for permanent residential dwelling recreational apparatus must be shown on the site plan.
  - h. All uses will be compatible with the adjacent property uses. Therefore, additional limitations may be imposed.
14. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area, Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified this Ordinance.
15. All streets shall be developed in accordance with this Ordinance and the County Road Commission specifications.
16. Site plans shall conform to all applicable requirements of township, county, state and federal statutes and approval shall be conditioned on the applicant receiving all necessary permits before final site plan approval.
17. Development or redevelopment may take place only on those portions of existing parcels of property contiguous to a lake, river, perennial stream or creek which are not classified as wetlands by the Michigan Department of Natural Resources or the U.S. Army Corp of Engineers. In cases where no upland areas are present on a lot existing before the adoption of this Ordinance, a wetland area may be developed if the following conditions can be met.
- a. The applicant receives all necessary permits or waivers.
  - b. The site plan meets all of the conditions outlined in the above permits or the criteria below whichever is more stringent.
    - 1) One dwelling unit per parcel.
    - 2) A minimum setback of two hundred (200) feet from the high water elevation for all structures or impervious surfaces excluding a boardwalk for access of the waterbody. (Boardwalks shall have a maximum width of

eight (8) feet)

- 3) An undisturbed Greenbelt Zone (accept for a boardwalk) two hundred (200) feet in depth shall be maintained.
- 4) The maximum lot area coverage on such parcels shall be five (5) percent.

#### Section 8.08 - Conditional Approvals

- A. The Planning Commission or Planning Commission may condition approval of a site plan on conformance with the standards of another local, county or state agency, such as but not limited to the Charlevoix Soil and Water Conservation District, County Drain Commission, County Road Commission, County Building Department, District Health Department #3, State Highway Commission or Natural Resources Department. They may do so when such conditions:
  1. Would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  2. Would protect the natural environment and conserve natural resources and energy.
  3. Would insure compatibility with adjacent uses of land.
  4. Would promote the use of land in a socially and economically desirable manner.
- B. The Planning Commission may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements of Article 9 of this Ordinance and may collect a performance guarantee consistent with the requirements of Section 8.10 to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:
  1. That such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;
  2. That absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

#### Section 8.09 - Conformity to Approved Site Plan Required

Following Final Approval of a site plan by the Planning Commission or the Planning Commission, the applicant shall construct the site plan

improvements in complete conformity with the approved plan. Failure to do so is a violation of this Ordinance and subject to the sanctions of Article 10 of this Ordinance

Section 8.10 - Performance Guarantee

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and 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 Planning Commission may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure 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, landscaping, and widening strips.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Planning Commission
- B. Where the Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the Treasurer prior to the issuance of a Zoning Permit by the Zoning Administrator for the development and use of the land. Upon the deposit of the performance guarantee the Township shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account to the applicant.
- C. An approved site plan 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 building permit.
- D. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with the Zoning Ordinance standards and the specifications of the approved site plan.
- E. Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the Treasurer shall return to the applicant the

performance guarantee deposited and any interest earned thereon.

- 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 Planning Commission, 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. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Township to insure completion of an improvement associated with the proposed use prior to the Planning Commissions conditional approval, the applicant shall not be required to deposit with the Township a performance guarantee for that specific improvement. 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 8.11 - Amendments to Approved Site Plans

- A. Amendments to an approved site plan may be made by the Planning Commission provided that such changes conform to the Zoning Ordinance and the landowner agrees. Minor changes to and approved site plan may be approved by the Zoning Administrator after construction has begun provided no such change results in any of the following:
1. A significant change in the use or character of the development.
  2. An increase in overall coverage of structures.
  3. A significant increase in the intensity of use.
  4. A reduction in required open space.
  5. A reduction in required off-street parking and loading.
  6. A reduction in required pavement widths or utility pipe sizes.
  7. A significant increase in traffic on public streets or an

increase in the burden on public utilities or services.

- B. No fees shall be required for the following minor amendments:
1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s). Relocation of building entrances or exits, or shortening of building canopies.
  2. Changing to a more restricted use provided there is no addition in the amount of off-street parking as originally provided.
  3. Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or in reduction of aisle width below Ordinance requirements.
  4. Moving of ingress and egress drives a distance of not more than 100 feet if required by the appropriate state, county or other local road authority with jurisdiction.
  5. Substituting landscape plan species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effects.
  6. Change type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary.
  7. Increase peripheral yards.
  8. Changing the location of an exterior building wall or location not more than 10 feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.
- C. If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change, he or she shall immediately notify the permit holder, the Building Inspector and the Planning Commission in writing that site plan approval has been suspended pending approval by the Planning Commission of the proposed amendment. The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop work order shall be issued by the Building Inspector for that portion of the project which is not in compliance with the Ordinance. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the Ordinance requirements, or of restarting the Site Plan Review process. When the issue has been resolved, the Zoning Administrator shall send a written notice to the permit holder, the Building Inspector and the Planning Commission that the

project's site plan has again been approved. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

#### Section 8.12 - Appeals of Final Site Plans

- A. Any person aggrieved by a decision of the Planning Commission

or Planning Commission in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.

- B. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable Ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

#### Section 8.13 - As Built Site Plan

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator six (6) copies of an "as built" site plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as built plans among the appropriate departments for review to insure conformity with the approved site plan and other Township requirements. Once each department has approved the as built plans the Zoning Administrator may make the final inspection and issue the Occupancy Permit.

#### Section 8.14 - Land Clearing

No person shall undertake or carry out any such activity or use, including any grading, clearing, cutting and filling, excavating, or tree removal associated therewith for which site plan approval or a Zoning Permit is first required by this Ordinance. Nor shall such activity proceed prior to obtaining necessary soil erosion and sedimentation control permit, wetland permits, or floodplains permits. Any violation of this provision is subject to the fines and penalties prescribed in Article 10 of this Ordinance for each day of the violation from the day of discovery of the incident until an approved restoration plan, or an approved site plan is granted.

### ARTICLE 9

## FENCING/SCREENING/BUFFERING/ LANDSCAPING

### Section 9.01 - Purpose

The intent of this section is to promote the public's health, safety, and general welfare by: minimizing noise, air, and visual pollution; improving the appearance of off-street parking and other vehicular use areas; requiring buffering between compatible land uses; regulating the appearance of property abutting public right-of-way; protecting and preserving the appearance, character, and value of the community and its residential neighborhood areas; preventing soil erosion and soil depletion; and, promoting soil water retention.

### Section 9.02 - Application

These requirements shall apply to all uses, for which site plan review is required under Article 8. No site plan shall be approved unless said site plan shall show landscaping, greenbelt buffers, and screening consistent with the requirements set forth herein. Screening is the enclosure of an area by a visual barrier, which may include a landscape buffer, solid fencing, or other materials as specified in this Article. Fencing is the enclosure of an area by the materials identified in Section 9.11 of this Article.

### Section 9.03 - Landscape Plan Required

A separate detailed landscape plan shall be required to be submitted as part of a site plan review. The landscape plan shall include, but not necessarily be limited to, the following items:

- A. Location, spacing, size, and root type (bare root (BR) or balled and burlaped (BB) and descriptions for each plant type proposed for use within the required landscape area.
- B. Minimum scale: 1" = 100'
- C. Existing and proposed contours on-site and 150 feet beyond the site at intervals not to exceed two (2) feet.
- D. Typical straight cross-section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
- E. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
- F. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
- G. Identification of existing trees and vegetative cover to be preserved.

- H. Identification of grass and other ground cover and method of planting.

Section 9.04 - Screening Between Land Uses

- A. Upon any improvement for which a site plan is required, screening shall be constructed at least six (6) feet in height along all adjoining boundaries with residentially zoned or used property. Either a landscape buffer or solid wall may be used as provided below, or when the distance between structures or adjoining lots is greater than twice the minimum setbacks would require, a fence meeting the requirements of Section 9.11 may be required at the discretion of the Planning Commission. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years. The applicant shall agree in writing to install solid fencing after the expiration of thirty-six (36) months, in the event that the landscaping has not totally blocked the view of areas required to be screened.
- B. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall may be required. Such wall shall be six (6) feet or more in height as measured on the side of the proposed wall having the higher grade.

Section 9.05 - Parking Lot Landscaping

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

Section 9.06 - Greenbelt Buffers

- A. A strip of land with a minimum width determined by the front yard setback of its zoning classification shall be located between the abutting right-of-way of a public street, freeway, or major thoroughfare, and shall be landscaped with a minimum of one (1) tree not less than twelve (12) feet in height or a minimum caliper of 2 1/2 inches (whichever is greater at the time of planting) for each thirty (30) lineal feet, or major portion thereof, of frontage abutting said right-of-way. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs, and/or other natural living, landscape material.

- B. Access ways from public rights-of-way through required landscape strips shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless such calculation would result in a violation of the spacing required set forth in this section.

#### Section 9.07 - Site Landscaping

- A. In addition to any landscape greenbelt and/or parking lot landscaping required by this section, ten (10) percent of the site area, excluding existing thoroughfare right-of-way, shall be landscaped.
- B. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed five (5) percent of the site area.

#### Section 9.08 - Minimum Size and Spacing Requirements

Where landscaping is required the Appendix A of this Ordinance sets forth minimum size and spacing requirements:

#### Section 9.09 - Landscape Elements

The following minimum standards shall apply:

- A. Plant materials and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to Charlevoix County, conform to the current minimum standard of the American Association of Nurseryman, and shall have proof of any required governmental regulations and/or inspections.
- B. A mixture of plant material, such as evergreen, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
- C. Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected by sod, seed, shrubs or other form of natural ground cover.
- D. Existing Trees.
  - 1. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the Planning Commission, protective techniques, such as, but not limited to, fencing or barriers laced at the dripline around the

perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Planning Commission.

2. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the Zoning Administrator the Owner shall replace them with trees which meet Ordinance requirements.
- E. All landscaping required by this Ordinance shall be planted prior to obtaining a Certificate of Occupancy or case, letter of credit, and/or certified check shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.

#### Section 9.10 - Installation and Maintenance

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

#### Section 9.11 - Fencing and Screening

Unless otherwise specified or determined by the Planning Commission, Planning Commission or Zoning Board of Appeals, fencing and screening is to be six (6) feet in height. Gateposts and other superstructures over site entrances and exits may be up to twelve (12) feet in height. Fencing and screening materials of a height greater than three (3) feet are not to be located within a required front setback or side setback adjacent to a street.

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

features from the view of abutting streets and parcels.

2. Equipment at Grade: When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.
- B. Outdoor Storage: To be screened on all sides by a solid wall or fencing.
  - C. Public Utility Substations: To be screened on all sides by a solid wall or fencing, and landscaping.
  - D. Side and Rear Lot Lines: The side and rear property lines of all non-residential uses are to be screened as follows:
    1. Adjacent to a Residential Use or Zone: See requirements of Section 9.04.
    2. Industrial and Commercial Zones: A solid wall or fencing is to be located on the side and rear property lines of any site within an Industrial or Commercial zone that abuts another zoning district or land use.
  - E. Swimming Pools: Yard areas with private swimming pools are to be fenced to discourage unsupervised access and use by small children. Such fencing is to be a minimum of four feet high, and equipped with a self-closing and self-latching gate. Latching devices are to be located at a minimum height of four feet. Such fencing may be omitted where building walls without doorways abut the pool area, provided that the entire perimeter of the pool area is secured.

#### Section 9.12 - Exceptions to Fencing and Screening Requirements

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

- D. Planning Commission Modification: Any of the requirements of this Section may be waived or modified through Site Plan approval, provided the Planning Commission first makes a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.
- E. Zoning Board of Appeals: The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this Section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

#### Section 9.13 - Materials for fencing and screening

- A. Solid board fences with wood posts not less than four inches by four inches (4" x 4") and solid board cover not less than one (1) inch thick. Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than eight (8) feet on center. The finished side of the wood shall face abutting properties. Stockade type fencing is not permitted.
- B. Wrought iron, open mesh or slatted fencing, provided that the ratio of one part open to six parts of solid fencing is not exceeded.
- C. Masonry walls designed and constructed to facilitate maintenance and not modifying natural drainage in such a way as to endanger adjacent property. The outer face of such wall (the face away from the use which is to be screened) to be of clay, brick, stone, embossed or pierced concrete block, or other decorative masonry material.

#### Section 9.14 - Barrier fences

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

#### Section 9.15 - Fire Hazard

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

ADMINISTRATION AND ENFORCEMENT OF ORDINANCE

Section 10.01 - Zoning Administrator

The provisions of this Ordinance shall be administered and enforced by a Township Zoning Administrator, appointed by the Township Board for such term and subject to such conditions and at such rate of compensation as said Board shall determine as reasonable.

Section 10.02 - Zoning Permit and Certificate of Compliance

- A. No building or structure subject to the provisions of this Ordinance shall hereafter be erected, structurally altered, reconstructed, used, or moved, nor shall any excavation of said land commence until application for a Zoning Permit has been filed with the Township Zoning Administrator on duplicate forms provided by the Township and the Zoning Administrator has issued such a certificate. No such certificate shall be required for any lawful use of any building or structure in effect at the time of passage of this Ordinance.
- B. The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. The application shall be filed not less than ten (10) days prior to the extended initiation of any work on the premises, and shall be accompanied by:
  1. A sketch to scale in duplicate showing the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein; the size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered; the width and alignment of all abutting streets, highways, alleys, easements and public open spaces; the front yard dimensions of the nearest building on both sides of the proposed building or structure; the location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration; and the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration;
  2. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator.
  3. Such other information as may be required to determine compliance with the Ordinance.
- C. A zoning permit shall not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits issued by the Charlevoix County Building Department.

- D. Any Zoning Permit under which no work is done within twelve (12) months from date of issuance shall expire. No permit shall be transferable.
- E. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, or in the case of false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
- F. For each Zoning Permit, a fee shall be paid to the Township Zoning Administrator who shall turn over the funds to the Treasurer. No Zoning Permit shall be valid until the required fees have been paid. No separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Board.

#### Section 10.03 - Violations and Penalties

The owner or agent, and any person or corporation who shall violate any of the provisions of this Ordinance or fails to comply therewith or with any of the requirements thereof, shall upon conviction be subject to a fine of not more than five hundred (\$500.00) and the costs of prosecution or in default of the payment thereof, by imprisonment in the discretion of the Court for not more than ninety (90) days. The paying of any fine or serving of any jail sentence shall not exempt the offender from meeting the requirements of this Ordinance. Each and every day such violations continues shall be deemed a separate and distinct violation. Whoever assists in the commission of such violation shall also be guilty of a separate violation and upon conviction thereof, shall be liable for such fine or imprisonment, or both. The owner of any building or structure, lot or land or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, corporation or person employed in connection therewith and who assists in the commission of such violation shall each be guilty of a separate violation.

#### Section 10.04 - Miscellaneous

The Township Board, The Township Planning Commission, the Zoning Board of Appeals, the township attorney, the Prosecuting Attorney of the County, or any owner or owners of real estate within the township in which such building, structure or premises is situated may institute injunction, mandamus, abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any said unlawful erection, alteration, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

## ARTICLE 11

### NONCONFORMING USES AND STRUCTURES

#### Section 11.01 - Definition and Classification Of Nonconforming Uses And Structures

- A. Nonconforming uses and structures are those which do not conform to a provision or requirement of this Ordinance or any subsequent amendment but which were lawfully established prior to the time of Ordinance adoption or amendment. Class A nonconforming uses or structures are those which have been so designated by the zoning board of appeals, after application by the person having interest in the property or the zoning administrator, upon finding that the use or any portion of the structure:
1. Is not in an environmentally sensitive area;
  2. And that the continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of this Ordinance;
  3. And that the use or structure does not and is not likely to significantly depress the value of nearby properties;
  4. And that the use or structure was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.
- B. All nonconforming uses and structures not designated as class A are class B nonconforming uses or structures.

#### Section 11.02 - Procedure For Obtaining Class A Designation, Conditions

- A. A written application shall be filed setting forth the name and address of the applicant, giving a legal description of the property to which the application pertains and including such other information as may be necessary to enable the zoning board of appeals to make a determination of the matter. The Zoning Board of Appeals may require the furnishing of such additional information as it considers necessary. The notice of hearing procedure before the Zoning Board of Appeals shall be the same as in the case of an application for a variance. The decision shall be in writing and shall set forth the findings and reasons on which it is based. Conditions shall be attached, where necessary, to assure that the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this Ordinance. No vested interest shall arise out of a class A designation.

#### Section 11.03 - Revocation Of Class A Designation.

- A. Any class A designation shall be revoked, following the same

procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for class A designation.

Section 11.04 - Regulations Pertaining To Class A Nonconforming Uses And Structures

- A. A class A nonconforming use or structure shall not be repaired, restored, extended, enlarged or substitute for one that is not in accordance with the following requirements:
1. This Ordinance shall not prohibit the repair, improvement or modernization of a class A nonconforming structure to correct deterioration, obsolescence, depreciation and wear, provide that such repair does not exceed an aggregate cost of fifty (50) percent of the structures replacement cost as determined by the Zoning Board of Appeals, provided, that the structure will still meet the qualifications of a class A nonconforming use or structure.
  2. Any class A nonconforming use or structure damaged by fire, explosion, flood, erosion or other means, may be rebuilt or repaired, provided that such restoration does not exceed fifty (50) percent of the structures pre-catastrophe replacement cost as determined by the Zoning Board of Appeals. Restoration of a class A nonconforming structure damaged in excess of fifty (50) percent of the structure's pre-catastrophe replacement cost may be permitted by the Zoning Board of Appeals provided the restored structure would still meet the qualifications of a class A nonconforming use or structure. However, no class A nonconforming structure damaged in excess of fifty (50) percent of the structures pre-catastrophe replacement cost shall be rebuilt except in full compliance with this Ordinance if such structure is located in a flood plain, shoreline erosion area or other areas of recurring natural hazards.
  3. Structural changes including enlargement or extension of a class A nonconforming structure or use may be permitted by the Zoning Board of Appeals except when such extension or enlargement would be incompatible with surrounding land uses or when the structural change would be inconsistent with the intent of this Ordinance. No extension or enlargement of a class A nonconforming use or structure shall be approved if approval would result in violation of the setback, sideyard, lot coverage or bulk requirements of this Ordinance.
  4. A class A nonconforming use may be substituted for by a similar nonconforming use or structure when the Zoning Board of Appeals determines the substitution would improve the property, would not increase the structure or uses, or when the substitution would not be contrary to the intent of this Ordinance.

Section 11.05 - Regulations Pertaining To Class B Nonconforming Uses And Structures

- A. It is a purpose of this Ordinance to bring class B nonconforming uses and structures into conformance with provisions of this

Ordinance as rapidly as is permitted by law. A class B nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements.

1. Minor repairs or maintenance of a class B nonconforming use or structure in order to keep it structurally safe and sound is permitted. A class B nonconforming use or structure shall not be repaired, improved or remodeled when such repairs or improvements exceeds twenty-five (25) percent of the structures replacement cost as determined by the Zoning Board of Appeals. If a class B nonconforming use or structure is changed to conform with this Ordinance, the limitations on repairs or improvements shall not apply.
2. Any class B nonconforming use or structure damaged by fire, explosion, flood, erosion or other means, shall not be rebuilt, repaired or reconstructed if cost of such are in excess of twenty five (25) percent of the structures pre-catastrophe replacement cost as determined by the Zoning Board of Appeals, except when the use or structure would fully comply with the requirements of this Ordinance.
3. No class B nonconforming use or structure shall be enlarged, extended or structurally altered nor shall the nonconforming use be changed to a substantially different nonconforming use.
4. If a mineral extraction operation is designated a class B nonconforming use, existing holes or shafts may be worked or enlarged on the land which constituted the lot on which operations were conducted at the time of the operation being so classified, but no new holes or shafts shall be established.
5. No class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time it was established.
6. A class B nonconforming structure or use may be substituted for with a conforming use or structure, or by a use or structure which meets the requirements of a class A nonconforming use when the Zoning Board of Appeals determines that the substitution would not increase the nonconformity of the use or structure or be contrary to the public health, safety and welfare and the intent of this Ordinance.

#### Section 11.06 - Determination Of Replacement Cost

- A. The cost of repairing, restoring, or improving a class A or B nonconforming use or structure excluding contents, damaged by fire, explosion, flood, erosion or other means, shall be made on the basis of an appraisal by a qualified individual designated by the Zoning Board of Appeals. The cost of such determination shall be born by the applicant. The Zoning Board of Appeals may determine replacement cost of an existing or pre-catastrophe structure based on information from the most recent Property Tax Assessment record if they find that such record is current and reasonably accurate.

#### SECTION 11.07 - NONCONFORMING LOTS OF RECORD

- A. Any nonconforming lot of record executed and delivered prior to the effective date of this Ordinance shall be used only for a use permitted in this Ordinance. If the use of a nonconforming lot requires a variation of the minimum lot area, setback, yard or maximum lot coverage requirements of this Ordinance in excess of fifteen (15) percent of the requirements, then such use shall only be permitted if a variance is granted by the Zoning Board of Appeals under the terms of this Ordinance. The reduction by fifteen (15) percent or less of the minimum lot area, dimensional requirements or an increase of fifteen (15) percent or less of the maximum lot coverage requirements of this Ordinance may be granted by the zoning administrator. When the minimum dimensional or maximum lot coverage requirements of this Ordinance can be met by the combination of two or three nonconforming contiguous lots owned by the same person, said lots may be combined for use and no variance is necessary.

#### Section 11.08 - Discontinuance of Nonconforming Use

If the nonconforming use of any parcel of land or structure is discontinued or abandoned, lack of operations or otherwise for a continuous period of twelve (12) months, then any further use thereof shall conform to the provisions of the Ordinance.

#### Section 11.09 - Creation of Non-Conforming Lots or Parcels

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

## ARTICLE 12

### ZONING BOARD OF APPEALS

#### Section 12.01 - Creation

There is hereby created a Zoning Board of Appeals which shall perform its duties and exercise its powers as provided by Act 184 of the Public Acts of 1943 as amended, and by the provisions of this Ordinance, and in such a way that the objectives of this Ordinance are observed, public safety and general welfare secured, and substantial justice done.

#### Section 12.02 - Membership

The Zoning Board of Appeals shall be appointed by the Township Board. It shall consist of three (3) members and two (2) alternates as provided by Section 18 of Act 184 of Public Acts of 1943 as amended. Members of said Board shall be removable by the Township Board for nonperformance of duty, or misconduct of office, upon written charges filed with the Township Clerk and following a public hearing by said Board upon such charges.

#### Section 12.03 - Rules of Procedure

- A. The Board shall adopt its own rules and regulations to ensure proper conduct of its meetings. Copies of such regulations shall be made available to the public at the office of the Township Clerk.
- B. Meetings of the Board shall be open to the public and shall be held at the call of the Chairman and at such times as the Board may determine.
- C. The Board shall act by resolution. The concurring vote of a majority of the members of said Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which the Board is required to pass under this Ordinance or to grant variances from the requirements of this Ordinance.
- D. Records - Minutes shall be recorded of all proceeding which shall contain evidence and date relevant to every case considered together with the votes of the members and the final disposition of each case. The grounds of every determination shall be stated and such determinations from which the appeal is taken. Such minutes shall accompany and can be attached to the standard forms required of persons appealing as part of the ZONING BOARD OF APPEALS permanent records. Such minutes shall become a public record and as such be filed in the Office of the Township Clerk. A copy of the decisions shall be sent promptly to the applicant and to the Zoning Administrator.
- E. Secretary and Counsel - The Township Clerk shall be responsible

for acting as secretary, or of providing secretarial services for the Zoning Board of Appeals , and all records of the Board's action shall be taken and recorded under his/her direction. The Township Legal Counsel shall, upon request by the Zoning Board of Appeals be present at designated meetings.

#### Section 12.04 - Appeals

- A. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by an officer, department or board of the township.
- B. Time Limit - Any appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance shall be made to the Zoning Board of Appeals through the Zoning Administrator within thirty (30) days after the date of the Zoning Administrator's decision which is the basis of the appeal. The persons making the appeal must file with the Zoning Administrator a signed notice of appeal specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- C. Hearings - When a notice of appeal has been filed in proper form with the Zoning Board of Appeals , the Secretary shall immediately place the said request for appeal upon the calendar for hearing and shall cause notices stating the time, place and object of the hearing to be served personally or by mail addressed to the parties making the request for appeal and to all property owners within three hundred (300) feet of the property in question at least ten (10) days prior to the date of the scheduled hearing. All notices shall be sent to addresses given in the last assessment roll. The Zoning Board of Appeals may recess such hearings from time to time and reconvene as per provisions of the open meetings act.
- D. Representation - Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

#### Section 12.05 - Duties and Powers of the ZONING BOARD OF APPEALS

The Township Zoning Board of Appeals shall have the following specified duties and powers:

- A. Review - Shall hear and decide appeals from any review, any order, requirement, decision or determination made by the Zoning Administrator in the administration of this Ordinance or the Planning Commission as allowed per provisions of this Ordinance..
- B. Interpretation - Shall have the power to:
  - 1. Hear and decide upon appeals for the interpretation of the

provisions of this Ordinance;

2. Determine the precise location of the boundary lines between zoning districts where there is dissatisfaction with the decision on subject made by the Zoning Administrator.
- C. Variances - The Zoning Board of Appeals shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, when all basic conditions below are satisfied.
1. The Zoning Board of Appeals may grant a variances wholly or partially only after the applicant has shown a practical Difficulty, by demonstration of all the following:
    - a. Strict compliance with area setbacks, frontage, height bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
    - b. A variance would do substantial justice to the applicant as well as to other property owners in the district.
    - c. The plight of the owner is due to unique circumstances of the property.
    - d. The problem is not self-created.
  2. In those cases where the Zoning Board of Appeals has determined that a lesser relaxation of the provisions of this Ordinance would give substantial relief and be more consistent with justice to others it may grant a partial variance.
  3. In addition to the foregoing conditions, the following rules shall be applied in granting of variances:
    - a. In granting a variance, the Zoning Board Of Appeals may specify, in writing, to the applicant such conditions in connection with the granting that will, in it judgement, secure substantially, the objectives of the regulations or provisions to which such variances applies. The breach of any such condition shall automatically invalidate the permit granted.
    - b. No application for a variance which has been denied wholly or in part by the Zoning Board Of Appeals shall be submitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.
    - c. Each variance granted shall become null and void unless

the provisions of the variance have been utilized by the applicant within six (6) months after the granting of the variance.

- D. Perform other duties as specified in this Ordinance.

## ARTICLE 13

### AMENDMENTS

#### Section 13.01 - Amendment Procedure

Amendments or supplements to this Zoning Ordinance may be made from time to time in accordance with Public Act 184 of 1943 as amended.

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of Zoning Districts shown on the Evangeline Township Zoning Map may be amended, supplemented or changed by Ordinance of the Township Board.
- B. Proposals for amendments, supplements or changes may be initiated by the Township Board on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
- C. The procedure to be followed for initiating and processing an amendment shall be as follows:
  1. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee as prescribed by the Township Board. No part of such fee shall be returnable to a petitioner if the public hearing is held.
  2. The Zoning Administrator shall notify, in writing, the Township Board and Chairman of the Planning Commission at the same time, or before, he transmits the amendment request to the Planning Commission.
  3. The Planning Commission shall consider each proposal for amendment in terms of its own judgement on particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development. The Planning Commission may recommend any additions or modification to the original proposal.
  4. Any deliberation on any proposal, the Planning Commission shall conduct at least one (1) public hearing, notice of the time and place of which shall be given by two (2) publications in a newspaper of general circulation in the township, the first to be printed not more than thirty (30) days nor less than twenty (20) days and the second not more

than eight (8) days before the date of such hearing. Notify all adjoining property owners within 300 not less than twenty (20) days prior to the public hearing. Not less than twenty (20) days notice of the time and place of such hearing shall also be given by mail to each public utility company and railroad within the zone affected who have registered to receive such notices. The notices shall include the places and times at which the tentative text and any map of the zoning Ordinance may be examined.

5. Following the public hearing, the Planning Commission shall submit the proposed amendment to the County Planning Commission for review. The approval of the County Planning Commission shall be presumed unless the County Planning Commission shall, within thirty (30) days of receipt of the proposed amendment, have notified the Township Clerk of its disapproval.
6. Following the review by the County Planning Commission the Planning Commission shall transmit the proposed amendment to the Township Board, and if the Township Board shall deem any amendments, changes, additions or departures advisable as to the proposed text or district boundaries, it shall refer the same to the Planning Commission for a report thereon within thirty (30) days. After receiving the report, the Township Board shall grant a hearing on the proposed amendment to any property owner who has filed a written request to be so heard and shall request the Planning Commission to attend such hearing. Thereafter, the Township Board may adopt the amendment without changes in accordance with the provisions and procedures of Act 184 of the Public Acts of 1943, as amended.
7. No application for a rezoning which has been denied by the Township shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Township Board to be valid.

#### ARTICLE 14

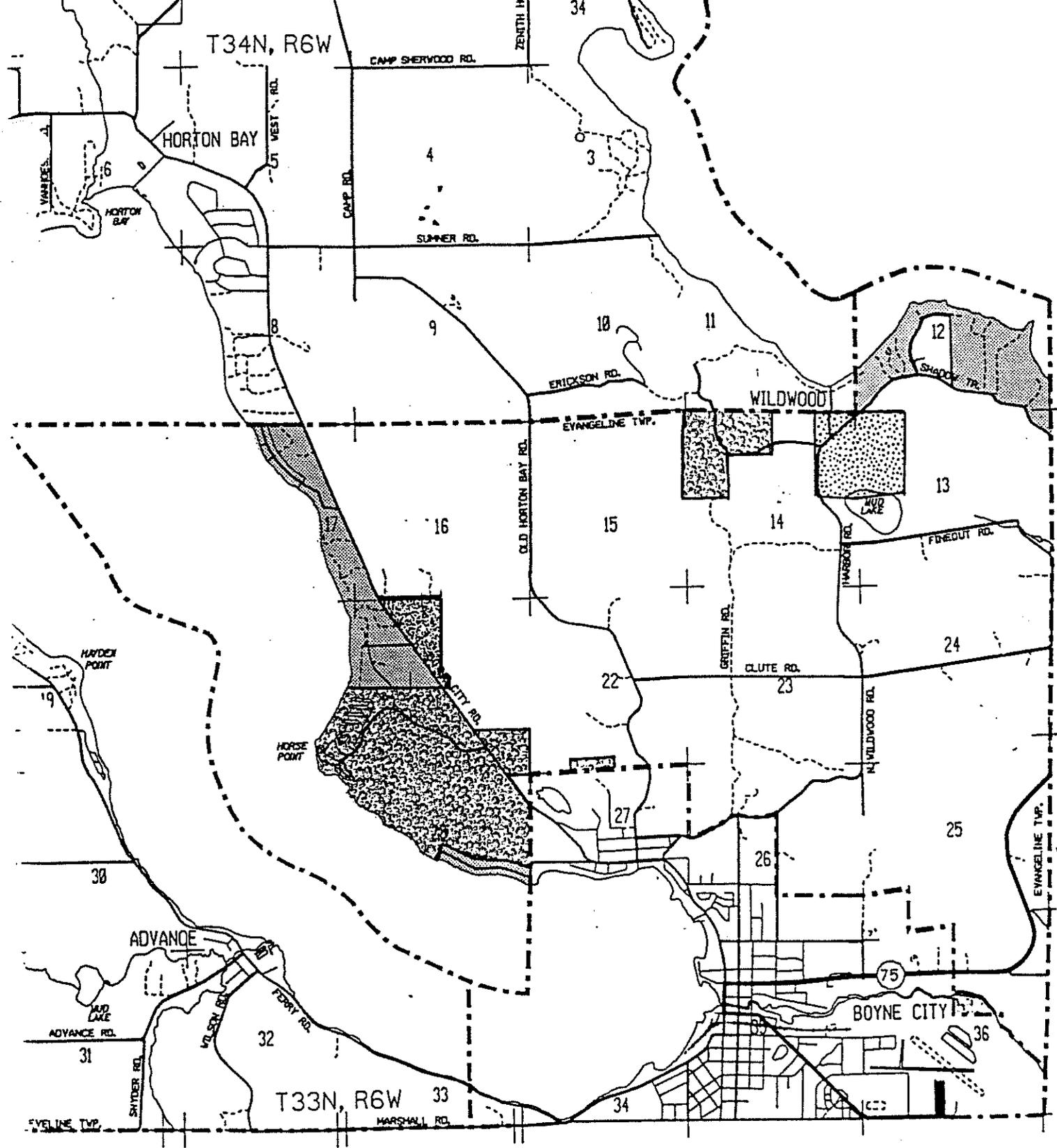
#### EFFECTIVE DATE

##### Section 14.01 - Effective Date

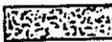
This Ordinance was adopted on February 5, 1990 by the Evangeline Township Board. It will become effective thirty (30) days following publication of a notice of adoption.







EVANGELINE TOWNSHIP ZONING DIST.

- |     |   |     |   |
|-----|---|-----|---|
| R-1 |  | C-1 |  |
| R-3 |  | I-1 |  |
| R-C |  | A-1 |  |