

## Article II – Definitions

### Section 2.01 – Definitions

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

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

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

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

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

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

**Adult Live Entertainment Establishments Regardless Of Whether Alcoholic Beverages May Or May Not Be Served:** Establishments which include a nightclub, bar, restaurant, or similar commercial establishment, which features (a) Persons who appear nude or in a "state of nudity" or "semi-nude"; and/or (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

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

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

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

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

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

**Alley:** A right –of– way which affords a secondary means of vehicular access to lots abutting thereon. (amended: August 4, 2009)

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

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

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

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

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

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

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

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

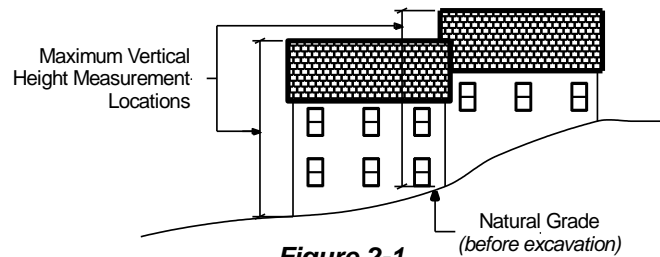
**Bed and Breakfast Establishments:** Any family-occupied dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation.

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

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

**Building Height:** The maximum vertical distance from any portion of the roof to the natural grade. No portion of the structure's roof (except chimneys and cupolas) may exceed the height allowed in the

specific District regulations. As illustrated in Figure 2-1, buildings may be "stair stepped" up and down slopes.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Floor Area:** The area of all floors computed by measuring the dimensions of the outside walls of a building. Porches, patios, terraces, breezeways, interior utility areas, carports, verandas, garages,

unfinished attics, attic floor areas with less than five (5) vertical feet from floor to finished ceiling are excluded. Floor areas of walkout basements may be considered if finished off in such a manner as to be suitable for occupancy and which contains a means of exit from each room directly to the exterior of the structure in compliance with the applicable building and fire codes. This square footage can be used for the purposes of complying with the floor area requirements of this Ordinance.

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

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

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

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

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

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

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

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

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

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

**Kennel:** See Dog Kennel.

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

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

**Lot:** A parcel of land, excluding any applicable road right-of-way, or site condominium unit occupied or to be occupied by a use or building and its accessory buildings or structures together with such open

spaces, minimum area, and width as required by this Ordinance for the Zoning District in which it is located.

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

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

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

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

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

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

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

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

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

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

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

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

- Proof of graduation from a school of massage licensed by the State of Michigan;
- Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are

- professional members of a massage association referred to in this Section;
- Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards and/or;
- A current occupational license from another state.

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

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

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

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

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

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

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

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

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

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

**Parent Parcel:** See Master Parcel.

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

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

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

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

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

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

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

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

**Recreational Vehicle:** see Recreational Unit.

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

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

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

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

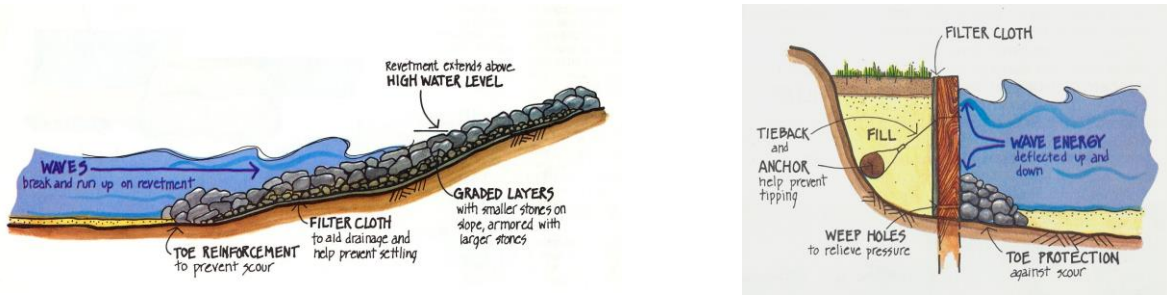
**Sanitary Landfill:** Sanitary landfill shall be defined as waste disposal areas, where the waste is deposited in a trench, compacted and back filled with land cover, in accordance with the Michigan statutes regulating sanitary landfill siting, design, construction and operation.

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

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



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



**Figure 2-2**

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

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

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

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

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

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

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

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

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

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

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

**Sign, Permanent:** A sign that is not intended for temporary use or a limited period. A permanent sign is

usually affixed or attached to the exterior of a building or to a pole or other structure by adhesive or mechanical means or is otherwise characterized by anchoring, construction materials, or a foundation indicative of an intent to display the sign for more than a limited period.

**Sign, Portable:** A sign or device, counterbalance sign, trailer sign, or any variation thereof, located on the ground, easily movable, not permanently attached thereto and that is usually a two-sided sign. Also includes any single or double surface painted or poster panel type sign OR any variation thereof.

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

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

**Sign, Temporary:** A sign that is intended for temporary use and a limited period, as allowed by this ordinance. Temporary signs may include, but are not limited to: auction signs, banners, balloons, builder signs, development in progress signs, garage sale signs, grand opening signs, holiday decorations, political signs, portable signs, real estate signs, and special event signs.

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

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

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

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

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

**Specified Anatomical Areas are defined as:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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