

Article III – General Provisions

Section 3.01 – Scope of Ordinance

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

Section 3.02 – Essential Service Clause Pertaining To Utilities

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

Section 3.03 – General Lot Requirements

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

C. Lot Width to Depth Relationship

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

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

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

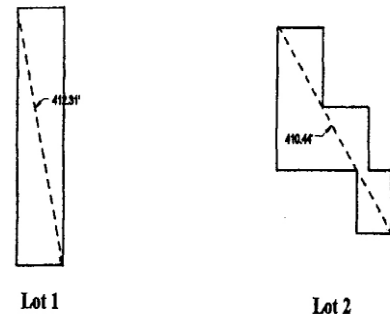


Figure 3-1

D. Grading and Lot Improvements

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

E. Road Access

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

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

If two (2) or more contiguous lots of record or portions of lots of record, not separated by any public or private road, are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots of record or portions of lots of record shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance. In addition, if two (2) or more contiguous lots of record or portions of lots of record, not separated by any public or private road, are under the same ownership and one of the lots of record has located on it a nonconforming structure and the nonconforming nature of the structure can be eliminated if the contiguous lots of record or portions of the lots of record are considered an undivided lot or parcel for the purposes of this Ordinance, then those contiguous lots of record or portions of lots of record shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes the structure's compliance with the dimensional regulations of this Ordinance. (effective April 21, 2010)

Section 3.04 – Water Supply and Sewage Disposal Facilities

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

Section 3.05 – Hazardous Substances

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

Section 3.06 – Natural Vegetation Waterfront Buffer Strip

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

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

5. No lawn shall be maintained between the Natural Vegetation Waterfront Buffer Strip and the water’s edge.
 6. No supplemental plant nutrients shall be allowed in the Natural Vegetation Waterfront Buffer Strip.
- C. See Section 5.11 Schedule of Regulations for alternative maximum impervious surface coverage options. (effective April 21, 2010)
- D. The Planning Commission may waive the requirement for installation of a new Natural Vegetation Waterfront Buffer Strip upon a finding that existing vegetation meets the standards of a Natural Vegetation Waterfront Buffer Strip.
(amended: August 4, 2009)
- E. Notwithstanding any other provision in this ordinance, any existing vegetation within the area of the required natural vegetation buffer strip shall be preserved whether or not the vegetation meets the specifications found in Section 3.06.B. No existing vegetation, living or dead and including stumps and root systems, within the required natural vegetation buffer strip area may be removed without site inspection and written approval from the Zoning Administrator. The requirements in this subsection shall not be construed as preventing vegetation which does not comply with the standards of Section 3.06.B from being replaced with new vegetation to increase compliance with Section 3.06.B. (amended: November 13, 2018)

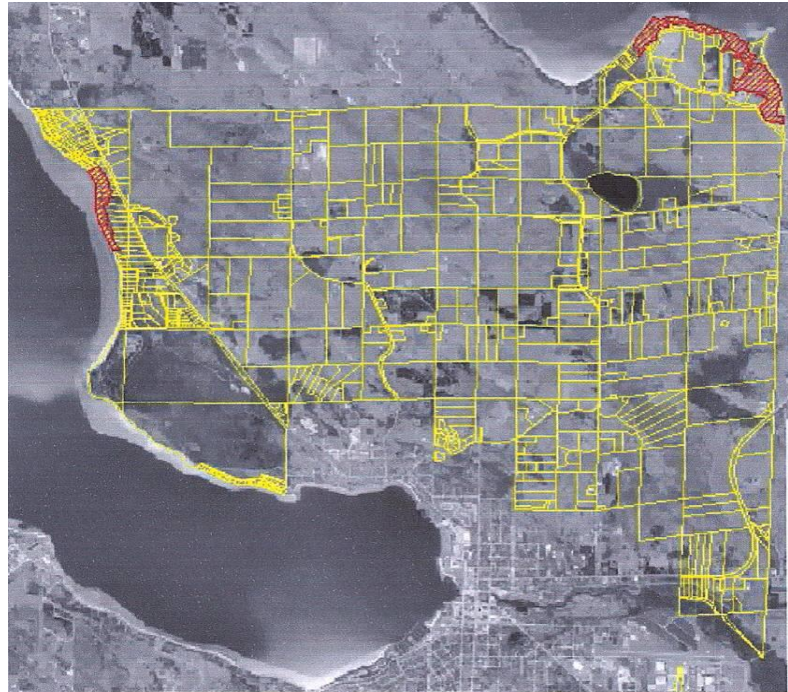


**Figure 1--Example of a Natural Vegetation Shoreline Buffer Strip
(Source: Tip of the Mitt Watershed Council)**

Section 3.07– Waterfront setback Provision

- A. Except as otherwise indicated in this Ordinance, no structures (excluding dock(s), shoreline protection structures, and waterfront view platforms) shall be erected or constructed less than fifty (50) feet (one hundred (100) feet for lots outlined on the Evangeline Township Shoreline Steep Slopes Map Figure 3-2, additional steep slope map detail on pages III-27 & III-28) upland from the High Water Level Elevation of any lake or river.
- B. No additional fill (except to replenish beach sand, with necessary permits) shall be allowed between the water's edge and the high water level elevation.

Evangeline Township Shoreline Steep Slopes Map



Shoreline Steep Slopes

Section 3.08 – Critical Areas

Figure 3-2

- A. Wetland Areas
1. Michigan Department of Environmental Quality (MDEQ) approved wetland delineation shall be required for all areas mapped as potential wetland areas on the MDEQ Wetland Inventory Maps covering Evangeline Township, unless specifically waived by the Zoning Administrator after a site visit.
 2. Lot coverage in areas deemed as wetlands will be no greater than five (5) percent.
- B. Steep Slopes
1. Except as may be allowed by other provisions of this Ordinance, no construction activities shall take place on slopes with grades of thirty three percent (33%) or greater (as determined by 10' contour topographic maps produced by the Charlevoix County GIS Department.)

Section 3.09 – Manufactured Housing

- A. Manufactured homes sited on individual lots shall meet the standards for minimum lot size, yard setbacks, minimum floor area and minimum dwelling unit width for the District in which they are located and shall meet the following additional standards:
1. Manufactured homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Manufactured Housing Commission requirements.

2. Manufactured homes shall be installed according to manufacturer's set up requirements, and the construction of the unit shall comply with the National Manufactured Housing Construction and Safety Standards Act, as amended.
 3. The wheels, axles and towing assembly shall be removed from a manufactured home before the unit is attached to the foundation. Additionally, no manufactured home shall have any exposed undercarriage or chassis.
 4. Manufactured homes shall not be used as an accessory building.
- B.** It shall be unlawful for any person to park, or cause to be parked, any manufactured home on any street, alley, highway or other public place in the unincorporated portion of the Township for storage, use as a dwelling or for overnight stops outside of a licensed manufactured housing community.

Section 3.10 – Manufactured Housing as Temporary Dwelling Unit

- A.** In any District where single-family residential uses are allowed, it shall be lawful for any person or persons to temporarily occupy a manufactured home as a single family dwelling while such person or persons are building a permanent residence (and have a valid building permit for the permanent residence), provided:
1. Such manufactured home meets the square footage requirements of this Ordinance and meets the provisions of Section 3.09 of this Ordinance.
 2. That the parcel contains sufficient size and frontage to allow the parcel to be split into two lots, and that a temporary manufactured home and permanent residence is located so that both dwelling units meet all dimensional requirements.
 3. Each building envelope shall be located on the parcel in such a manner so as to meet all setback requirements should the parcel be split.
- B.** A permit for the temporary use of the manufactured home, in compliance with this ordinance, must be obtained from the Zoning Administrator.

Section 3.11 – Screening Between Land Uses

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

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

Section 3.12 – Vehicular Parking Space and Access

- A.** For each dwelling, business, commercial, industrial, or similar building hereafter erected or altered, and located on a public highway in the Township, including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable off-street parking in accordance with the following schedule:
- 1.** Residential Uses: Two (2) parking spaces per primary dwelling unit. One (1) additional parking space for an accessory dwelling unit.
 - 2.** Commercial, Service and Office Uses: Two (2) parking spaces per 1,000 square foot of gross floor area. Maximum five (5) parking spaces per 1,000 square feet of gross floor area.
 - 3.** Industrial Uses: one parking space for every 1,000 square foot of gross floor area.
- B.** Two (2) or more buildings or uses may collectively provide the required off-street parking. In such a case, the required number of parking spaces for the individual uses may be reduced by up to twenty-five (25%) percent if a signed agreement is provided by the property owners and, upon approval, the agreement is recorded with the Charlevoix County Register of Deeds for both properties.
- C.** Parking Lot Deferment: Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area. Area of sufficient size to meet the parking space requirements of this Article shall be retained as open space, and the owner shall agree to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Zoning Administrator. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout. Any required landscaping placed in this area shall be relocated when the parking area is expanded.
- D.** In order to minimize excessive areas of pavement, which are unsightly and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirements by greater than ten (10%) percent shall not be allowed, except as approved by the Planning Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.
- E.** In case of a use not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the most similar use listed.
- F.** Exits and entrances may be combined or provided separately. Approval of location of such exit and entrance shall be obtained in writing from the Charlevoix County Road Commission and/or Michigan Department of Transportation which approval shall include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.
- G.** Area Requirement: When a parking space for a vehicle does not have a direct means of ingress and egress from an alley or street, a minimum of 200 square feet of lot area shall be provided for that parking space. Parking lot access aisles shall be wide enough for access to the parking spaces based on the design of the parking lot. When a parking space for a vehicle does have a direct means of ingress and egress from an alley or street, a minimum of 180 square feet of lot area shall be provided for that parking space. (amended: August 4, 2009)

Section 3.13 – Signs (amended: 2014)

The purpose of this section is to preserve the desirable character of Evangeline Township, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as

tourists and transients, may avail themselves of the goods and services afforded by the local business places. At the same time, the Township recognizes the right of residents to be free of advertising that could adversely affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this Ordinance.

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

1. One (1) non-illuminated identification sign per use, not exceeding four (4) square feet of sign surface.
2. Street name signs, route markers, Michigan Department of Transportation Tourist Oriented Directional Signs (TODS) and other traffic control signs erected or approved by state, or county agencies when necessary to give proper directions or to otherwise safeguard the public.
3. Non-advertising signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to: road hazards, high voltage, fire danger, explosives, limited visibility, etc.
4. Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages), provided the sign surface does not exceed the maximum size of two (2) square feet.
5. Non-advertising signs marking a historically significant place, building or area when sanctioned by a national, state or local historic organization recognized by the planning commission, provided the sign surface does not exceed the maximum allowed size of sixteen (16) square feet or the maximum size allowed in the Zoning District whichever is less.
6. Signs that have been approved in conjunction with a valid site plan or zoning permit for any principal or accessory use, and signs required by federal or state agencies in connection with federal or state grant programs.
7. Temporary real estate signs, not exceeding six (6) square feet, on individual lots advertising a premise for sale or rent.
8. Signs advertising sales such as garage, estate, auction, moving, and yard sales, may be posted for no more than seven (7) consecutive days and removed within twenty-four (24) hours of the end of the sale, provided the sign surface does not exceed the maximum size limitations of four (4) square feet.
9. Political and noncommercial signs provided the sign surface does not exceed the maximum size limitations of Subsection B. below.
10. All real estate signs, both on-premise and off-premise, shall be removed within seven (7) days of the sale or rental of the property

B. The size of any publicly displayed sign, symbol or notice on a premises to indicate the name of the occupant, to advertise the business transacted there, to express non-commercial speech, or directing to some other locale, shall be regulated as follows:

<u>Use District</u>	<u>Maximum Size of Sign per Side</u>
GB, SWB, P, W, K, R-1	Six (6) square feet
MU, R/CS	Twelve (12) square feet

RRF, I

Twenty-four (24) square feet

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

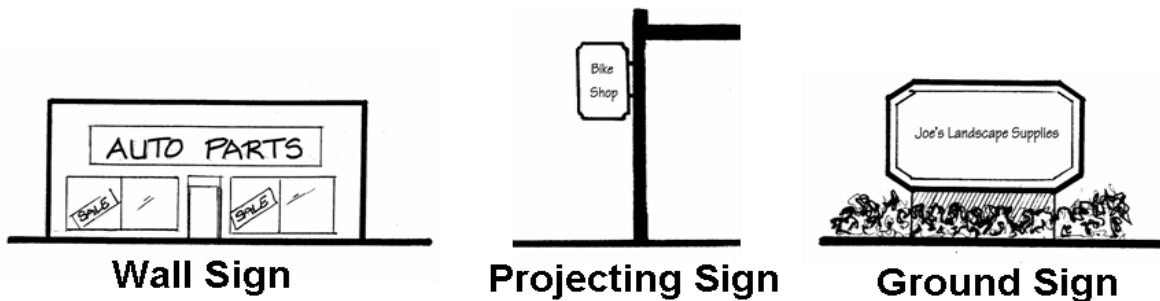


Figure 3-3

- C. In addition to the size limitations stated in Subsection 3.13.B above, the following conditions shall apply to all signs, including off-premises signs, erected in any Zoning District:
1. No sign, except non-illuminated residential nameplates and those specified in subsection 3.13.1, shall be erected or altered until approved by the Zoning Administrator, or authorized by the Planning Commission as part of an approved site plan. After approval, the required sign permit shall be issued by the Zoning Administrator.
 2. No signs shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
 3. All illumination unless otherwise approved by the Planning Commission, shall be oriented downwards and shall not trespass beyond the borders of the sign, as illustrated in Figure 3-4.
 4. Signs containing flashing, intermittent or moving lights are prohibited.
 5. No awning shall be illuminated internally or illuminated by flashing lights. Signs may contain lettering and backgrounds made of reflective material.
 6. One internally lit sign not to exceed six (6) square feet per business shall be allowed provided the sign has an opaque background or field of a dark color with letters, numerals, logos, and similar message elements of a transparent material to permit internal lighting revealing the message or information for which the sign is intended.
 7. Off-premises directory signs shall be permitted subject to review and approval of location by the Zoning Administrator. Not more than one (1) freestanding sign per five hundred (500) feet of road frontage or per lot may be allowed, except if the signs are directional signs as provided by the Michigan Department of Transportation and approved by the Zoning Administrator. No off-premises sign shall be permitted in GB, SWB, P, W, K, R-1 or MU Zoning Districts.
 8. Freestanding signs may be permitted in the front yard provided the sign is located at least ten (10) feet behind the front lot line. No freestanding sign shall exceed a maximum of six (6) feet in height, measured from the ground to the top of the sign, regardless of the Zoning District.

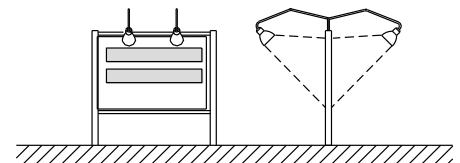


Figure 3-4

9. Both sides of any freestanding or overhanging sign may be used for display.
 10. All directional signs required for the purpose of orientation, when established by the Township, County, State, or Federal governments, shall be permitted in all Districts.
 11. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet and shall be no less than fourteen (14) feet above the right-of-way.(see Figure 3-5). However, prior to the erection or overhanging of a sign in a public right-of-way, the sponsor of such sign shall receive the approval of the proper governmental agency having jurisdiction over such right-of-way.
 12. Roof position signs are specifically prohibited when projecting above the high point of the roof.
 13. A maximum of two (2) signs shall be allowed, and the cumulative area for on premise signs shall not exceed that allowed in the District per subsection 3.13.B.
 14. Advertising devices such as banners, balloons, flags, pennants, pinwheels or other devices with similar characteristics are prohibited, except when used temporarily for a period not to exceed thirty (30) consecutive days to announce the opening of a new type of business or new owner.
 15. In the case of non-commercial special events, advertising devices such as banners, balloons, flags, pennants, pinwheels or other devices with similar characteristics, are permitted, for a period of not more than fourteen (14) days prior to the event and shall be removed within one (1) day of the completion of the event.
 16. Non-business related signs shall be permitted.
 17. Political signs shall be removed within five days after the election or ballot issue.
 18. No commercial or business semi-trailers or other storage trailers shall be parked or stored within the front yard of any property located along a public road or highway. Such trailers utilized in site construction and associated with a valid zoning permit shall not be located in the front yard, unless no alternative location is feasible and the location is approved by the Zoning Administrator.
- D. If any provisions of any other ordinance, statute or law of Charlevoix County or the State of Michigan impose greater restrictions than herein set forth, then the provisions of such ordinance or statute shall take precedence.

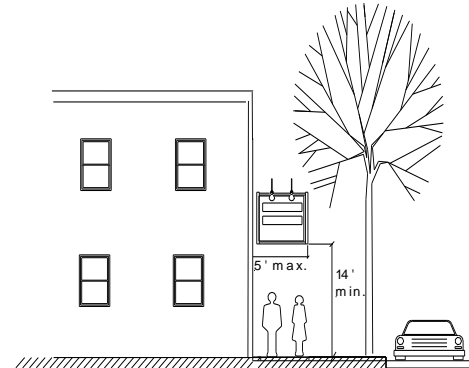


Figure 3-5

The use of any lawful outdoor business or informational sign erected prior to this Ordinance and in use on the date this Ordinance is enacted, which does not meet these standards, may be continued. Such signs shall be designated as “Nonconforming signs”. The maintenance, reconstruction, alteration, discontinuation and change in the nonconforming nature of a Nonconforming sign shall be governed by **Section 3.16 Nonconforming Uses and Structures** of this Ordinance.

Section 3.14 – Exterior Lighting

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

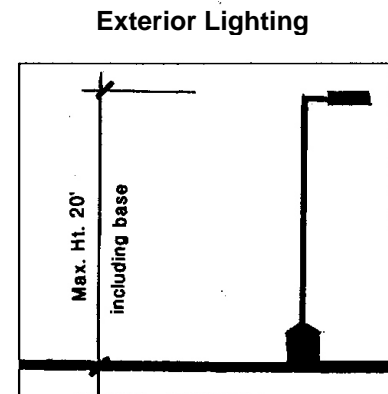


Figure 3-6

Section 3.15 – Home Business

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

A. Home Occupations

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

7. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
8. The outdoor storage of goods and/or materials of any kind is prohibited. No goods or materials shall be sold that are not produced through the conduct of the Home Occupation.
9. No process, chemicals, or materials shall be used which are contrary to any applicable state or federal laws.

B. Cottage Industries

1. Cottage industries may be permitted in any Zoning District in which single-family dwellings are permitted, subject to review and approval by the Planning Commission. Cottage industries shall be allowed on the basis of individual merit, a periodic review of each cottage industry may be performed to ensure the conditions of approval are adhered to. If the premises is sold, leased, or rented to a party other than the applicant, the permit shall be reviewed for compliance with the original permit by the Zoning Administrator. If any changes are necessary, the request will be reheard by the Planning Commission.
2. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such industry.
3. A cottage industry shall occupy not more than one building. The floor area of such a building shall not exceed, in the Rural Residential/Farm Forest District, fifteen hundred (1,500) square feet, unless approved by the Planning Commission based on Zoning District parcel size and adjacent uses.
4. The outdoor storage of goods and/or materials of any kind is prohibited unless screened (by a tight-board fence, landscaped buffer, landscaped berm, etc.) from view from neighboring property and road rights-of-way. If required, the type of screening shall be determined at the discretion of the Planning Commission.
5. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and surrounding Zoning Districts. Any machinery, mechanical devices or equipment employed in the conduct of a Cottage Industry shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the allowed uses of the premises in the given Zoning District.
6. Traffic and delivery or pickup of goods shall not exceed that normally created by typical uses permitted in the given Zoning District.
7. Cottage industries shall be conducted only by the person or persons residing on the premises. The Planning Commission may allow up to two (2) non-residents working at the given premises to assist with the business, including both non-resident employees and those working with the business on a contractual basis.
8. To ensure that the cottage industry is compatible with surrounding residential use, a "not-to-exceed" number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process.
9. To ensure that the cottage industry is compatible with surrounding residential use, the hours of operation shall be approved by the Planning Commission.

C. Termination, Extensions, Revisions, and Inspections

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

Section 3.16 – Nonconforming Uses and Structures

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

1. Class A nonconforming uses or structures are those which have been so designated by the Zoning Administrator, after application by the person having an interest in the property, upon finding that the use or structure meets all of the following requirements:
 - a. No portion of the use or no portion of the structure is in an environmentally sensitive area as defined by this ordinance;
 - b. The continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of this Ordinance;
 - c. The use or structure does not and is not likely to significantly depress the value of nearby properties;
 - d. The use or structure was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.
2. All nonconforming uses and structures not designated as Class A are Class B nonconforming uses or structures.

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

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

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

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

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

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

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

E. Regulations Pertaining to Class B Nonconforming Uses and Structures

It is the purpose of this Ordinance to bring Class B nonconforming uses and structures into conformance with provisions of this Ordinance as rapidly as is permitted by law. A Class B nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:

1. Minor repairs or maintenance of a Class B nonconforming structure in order to keep it structurally safe and sound are permitted. A Class B nonconforming structure shall not be repaired, improved or remodeled when such repairs or improvements exceeds twenty-five (25%) percent of the structure's replacement cost as determined by the Planning Commission. If a Class B nonconforming use or structure is changed to conform with this Ordinance, the limitations on repairs or improvements shall not apply. (adopted February 1, 2011)
2. Except as provided in subsections 3 and 5 below, any Class B nonconforming structure that is removed by the property owner or damaged by fire, explosion, flood, erosion or other means shall not be repaired or reconstructed if the costs of such repairs or reconstruction are in excess of twenty-five percent (25%) of the structure's pre-catastrophe replacement cost as determined by the Planning Commission. (adopted July 21, 2017)
3. A Class B nonconforming dwelling unit located in the Springwater Beach District or Glenwood Beach District may be repaired or reconstructed when the repairs to the dwelling unit or the reconstructed dwelling unit complies with the following requirements: (adopted July 21, 2017)
 - a. The repairs to the dwelling unit or the reconstructed dwelling unit will not result in a violation of any setback requirement by more than fifty percent (50%).
 - b. The repairs to the dwelling unit or the reconstructed dwelling unit will result in the dwelling unit having the same spatial envelope both horizontally and vertically as the original dwelling unit.

- c. The repairs to the dwelling unit or the reconstructed dwelling unit will not encroach into the Natural Vegetation Waterfront Buffer Strip required by this ordinance.
 - d. The impervious surface standards for the repaired dwelling unit or the reconstructed dwelling unit are not exceeded.
- 4. No Class B nonconforming may be changed to a different nonconforming use unless the Planning Commission finds the new nonconforming use more conforming. (adopted July 21, 2017)
- 5. A Class B nonconforming principal dwelling unit (not an accessory dwelling unit) located on a waterfront lot may be enlarged, extended or structurally altered but only when the Planning Commission finds that the nonconforming dwelling unit and the proposed enlargement, extension, or structural alteration complies with all of the following applicable standards and all other applicable requirements of this ordinance. (amended: November 13, 2018)
 - a. No portion of the proposed enlargement, extension, or structural alteration of the nonconforming dwelling unit shall be located within 50 feet of the high water level elevation. (amended: November 13, 2018)
 - b. The proposed enlargement, extension, or structural alteration of the nonconforming dwelling unit may be located within the 100 foot waterfront setback for properties outlined in the Evangeline Township Shoreline Steep Slopes Map (Figure 3-2, but shall not be located closer to the high water level elevation than the existing nonconforming dwelling unit or 50 feet, whichever is farther from the high water elevation. (amended: November 13, 2018)
 - c. The proposed enlargement, extension, or structural alteration of the nonconforming dwelling unit shall not exceed the following ground floor area requirements:
 - i. For an existing nonconforming dwelling unit with a ground floor area of less than 1,000 square feet, the enlargement, extension, or structural alteration shall not exceed 50% of that existing ground floor area.
 - ii. For an existing nonconforming dwelling unit with a ground floor area of 1,000 square feet or more, but less than 2,000 square feet, the enlargement, extension, or structural alteration shall not exceed 25% of that existing ground floor area.
 - iii. For an existing nonconforming dwelling unit with a ground floor area of 2,000 square feet or more, the enlargement, extension, or structural alteration shall not exceed 10% of that existing ground floor area.
 - d. The total impervious surface standards for the existing nonconforming dwelling unit and the proposed enlargement, extension, or structural alteration shall not be exceeded.
 - e. The property owner shall establish a Natural Vegetation Waterfront Buffer Strip that is 50 feet in depth and that meets all requirements of Section 3.06 of this ordinance.
 - f. The property owner shall obtain site plan approval pursuant of the procedures and requirements of Article VI of this ordinance.
- 6. If a mineral extraction operation is designated a Class B nonconforming use, existing holes or shafts may be worked or enlarged on the land which constituted the lot on which operations

were conducted at the time of the operation being so classified, but no new holes or shafts shall be established.

7. No Class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time it was established.
8. A Class B nonconforming structure or use may be replaced by a conforming use or structure, or may be replaced by a Class A nonconforming use or structure if the Planning Commission finds that the new nonconforming use or structure qualifies for a Class A designation and that the new nonconforming use or structure will not increase the extent or intensity of the nonconformity on the property. (adopted February 1, 2011)

F. Determination of Replacement Cost

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

G. Nonconforming Lots of Record

1. In any District, principal structures and customary accessory buildings may be erected on any legally created nonconforming lot of record not meeting the area requirements provided a permit for construction of a well and septic system is granted by the Northwest Michigan Community Health Agency and can meet all other Zoning District regulations.
2. If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance.

H. Discontinuance of Nonconforming Use

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

1. Whether utilities, such as water, gas, and electricity to the property have been disconnected,
2. Whether the property, buildings, and grounds have fallen into disrepair,
3. Whether signs or other indications of the existence of the nonconforming use have been removed,
4. Whether equipment or fixtures necessary for the operations of the nonconforming use have been removed,

5. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

I. Creation of Non-Conforming Lots or Parcels

No lot area and no yard, court, parking areas or other required space shall be divided, altered, reduced or diminished as to make said area or dimension less than the minimum required or more than the maximum allowed under this Ordinance, except where such reduction or expansions have been brought about by the expansion or acquisition of public 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.

Section 3.17 – Landscaping

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

A. Landscape Elements

The following minimum standards shall apply:

1. Plant materials and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to Charlevoix County, conform to the current minimum standard of the American Association of Nurseryman, and shall have proof of any required governmental regulations and/or inspections.
2. A mixture of plant material, such as evergreen, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
3. Berms shall be constructed with slopes not to exceed a 1:3 gradient, with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected by sod, seed, shrubs or other form of natural ground cover.
4. Existing Trees:
 - a. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the Planning Commission, protective techniques, such as, but not limited to, fencing or barriers laced at the drip line around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Planning Commission.
 - b. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the Zoning Administrator, the owner shall replace them with trees which meet Ordinance requirements.

B. Plant Material - size and spacing

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

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

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

C. Site Landscaping

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

D. Landscape Buffer

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

E. Parking Lot Landscaping

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

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

G. Installation and Maintenance

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

Section 3.18 – Fencing and Screening

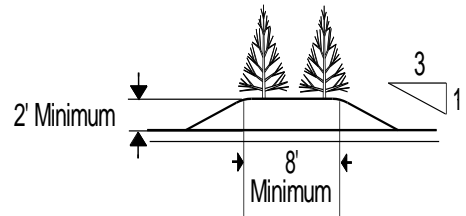
A. Fences, Walls, and Hedges Height and Location Regulations

1. General Provisions
 - a. Unless otherwise specified within this ordinance, fences, walls, or hedges and screening shall not exceed six (6) feet in height in any required side or rear yard. A security fence for a permitted use may include a maximum of one additional foot of barbed wire when the

Planning Commission finds that such barbed wire is necessary to secure the area within the boundary fence.

- b. Unless otherwise specified within this ordinance, fences, walls, or hedges in any required front yard shall not exceed three (3) feet.
 - c. Gateposts and other superstructures over site entrances and exits may be up to sixteen (16) feet in height.
 - d. Fences, walls, or hedges shall be set back no less than two (2) feet from lot lines, and the finished side of any fence shall face the adjacent property or road. Except as provided herein, all fences shall be located entirely on the property of the person constructing the fence. Fences, walls, or hedges shall be allowed on the property line provided that both adjacent property owners submit a joint zoning application agreeing to the joint fence.
 - e. Fences for residential accessory use enclosures such as, but not limited to, tennis courts, kennels, and dog runs, shall not exceed twelve (12) feet in height, and shall be set back from lot lines as required for structures in the zoning district. (effective: June 14, 2012)
2. Mechanical Equipment. (This Subsection does not apply to single family residential uses, or to any use in an Industrial land use category except if it abuts a residential area.) When located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents, or chimneys, are to be screened to the height of the particular piece of equipment as follows:

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



Berm Design Detail

Figure 3-7

3. Outdoor Storage. All outdoor storage shall be screened on all sides by a solid wall or fencing.
 4. Public Utility Substations. All public utility substations shall be screened on all sides by a solid wall or fencing and landscaping.
 5. Side and Rear Lot Lines. The side and rear property lines of all non-residential uses are to be screened as follows:
 - a. Adjacent to a Residential Use or Zone: See requirements of **Section 3.11**.
 - b. Industrial Zones: A solid wall or fencing is to be located on the side and rear property lines of any site within an Industrial zone that abuts another Zoning District or land use.
- B. Exceptions to Fencing and Screening Requirements**
1. Buildings Abutting Property Lines. Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
 2. Location Adjustment. Where property line fencing or screening is required, landscape screening is considered preferable. If fencing is proposed, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the property lines are landscaped, or in rural areas, retained in their natural vegetative state at the discretion of the Planning Commission.

3. Existing Screening. Any fence, screen, wall or hedge which does not conform to the provisions of this Section and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge except as permitted in other sections of this Ordinance.

C. Materials for Fencing and Screening

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

D. Barrier Fences

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

E. Fire Hazard

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

Section 3.19 – Accessory Buildings

- A. In the GB, SWB, P, K, W, R-1, and MU Zoning Districts, no free standing accessory structure may be built prior to the principal dwelling or structure being completed. Only one accessory building shall be allowed. One additional shed, less than 200 square feet, may be built. Total square footage of all accessory structures and accessory buildings shall not exceed the square footage of the first floor of the primary residence, excluding the garage, and must meet district standards.
- B. In all districts, a detached accessory building shall be located no closer to a front, side, or rear lot line than the permitted distance for the principal structure on the same lot.
- C. In all districts, manufactured housing shall not be used as an accessory building. (amended: August 4, 2009)

Section 3.20 – Permitted Uses (Towers)

The following uses are specifically permitted in any zone:

- A. Telecommunication Towers and Alternative Tower Structures located on property owned, leased, or otherwise controlled by Evangeline Township, in the RRF districts provided a license or lease

authorizing such Telecommunication Tower or Alternative Tower Structure has been approved by Evangeline Township.

- B. Antenna co-located on existing towers, provided the total height of the tower and antennae does not increase more than fifteen (15) feet.

Section 3.21 – Non-commercial Wind Turbine Generators

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

Section 3.22 – Land Development

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

A. Land Development Projects Subject to Review:

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

B. Unit Configuration and Design Standards:

- 1. Site condominium units and their adjoining common element yards (not roads), platted lots, and non-platted land divisions shall conform to the dimensional regulations of the District in which they are located (see **Section 5.11, Schedule of Regulations**) and the following additional standards:
 - a. Except as provided herein, a setback of two hundred fifty (250) feet shall be maintained from a pre-existing public road. The Planning Commission may reduce this required setback to no less than fifty (50) feet if it finds one of the following:
 - (1) A natural buffer or screening, such as a topographic change (hill or valley), or significant vegetation, such as woodlands, are present along the pre-existing public road such that the visual impact of the proposed development would be minimal from the public road.
 - (2) Strict adherence to the required two hundred fifty (250) feet setback would require the development to be located in a critical area (see **Section 3.08**).
 - b. If the Planning Commission reduces the required setback pursuant to subsection B.1.a. (2) above, then the Planning Commission may require additional landscaping to be planted within the setback area so that visual impact of the proposed development would be minimal from the public road.

- c. One (1) access point to the proposed land development project shall be permitted for each master parcel and/or the first five hundred (500) feet of road frontage. One (1) additional access point to the proposed land development project shall be permitted for each additional full five hundred (500) feet of continuous road frontage. The Planning Commission may require shared access to the proposed land development via a service drive or via a public or private road.
- 2. The Planning Commission may require development design modifications (such as site condominium units, lots, or parcels be designed with reverse lot frontage or side lot orientation) in order to improve roadway safety, preserve the road character of the Township, and minimize the impact of the proposed land development project on natural resources.

Section 3.23 – Construction on Steep Slopes

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

- A. On newly created lots, areas with slopes with natural grades of 33% or greater shall not be disturbed and shall be left in their natural state. (Note the Planning Commission may at its discretion require a topography survey of the site done at a minimum of two (2) foot contours to ensure that this provision is met). The Planning Commission may allow new roads and access drives to be constructed in these areas when the applicant can clearly demonstrate that no other feasible alternative exist. In these cases, the Planning Commission may place additional construction and siting requirements (E.G. use of retaining walls, maintaining additional vegetative cover, requiring additional vegetative cover, etc) to insure that they shall have the least impact on the landscape.
- B. New buildings shall not be located within 100 feet of lakes or rivers.
- C. Construction of new buildings shall be limited to a primary dwelling, and/or accessory structures provided the aggregate footprint area of the accessory structures does not exceed the total footprint area of the primary dwelling.
- D. Clearing and grading of a site shall be the minimum area to accommodate the proposed buildings or structures.
- E. Grade changes (cut or fill) for new construction in excess of six (6) vertical feet shall be allowed only if the Planning Commission finds that they shall be shielded from view from public roads or waterways by vegetation or topography.
- F. Construction of new buildings on lots created after the adoption of this Ordinance shall be limited to those areas that are covered, at the site of proposed construction and within 100 feet of this site, with pole or sawlog size timber stocked at a minimum density of 60 sq. ft. of Basil Area per acre. Only selective trimming of trees within a minimum of 100' of buildings or proposed building sites shall be allowed for “filtered views” (See Figure 3.08). Clear cutting of view corridors is prohibited.



Figure 3.08

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

Section 3.24 - Impervious surfaces regulations

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

- A. Impervious surface shall be calculated as the sum of the square footage of the footprint of all impervious surfaces as defined, except that the Planning Commission may allow the calculated impervious surface coverage to be modified as described in Section 3.24.B and Section 3.24.C.
- B. The Planning Commission may determine that proposed pervious paving shall not be included in impervious surface calculations when site plans include pervious paving systems which meet the requirements of this subsection. Plans for pervious paving systems must be designed to allow all potential run-off from a 50-year-frequency storm event to be absorbed on the lot. Plans for pervious paving systems must be designed to show system failure (for instance, a concave design where a puddle will form if the pervious system is clogged). Plans for pervious paving systems must be sealed by a civil engineer. A maintenance agreement requiring the property owner to properly maintain the pervious paving system shall be required. The maintenance agreement shall contain provisions granting township officials and their designees access to the property on which the pervious paving system is located for the purpose of inspecting and, if necessary, repairing the system and shall contain provisions that the costs of any inspections and/or repairs shall be assessed to the property owner and shall become a lien on the property if those costs remain unpaid for a period of 30 days after a written statement of those costs is sent to the property owner. The property owner shall record a copy of the maintenance agreement in the Charlevoix County Register of Deeds Office prior to the issuance of any zoning permits for the development of any lot covered by the maintenance agreement. The Planning Commission may allow a pervious paving system to mitigate impervious surfaces such as walkways and patios. In no case shall such systems be allowed to mitigate any area covered by structures.

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

Section 3.25 – Medical Use of Marijuana

- A. Intent and Purpose. The purpose of this section is to implement land use regulations to address the medical use of marijuana as authorized by the enactment of the Michigan Medical Marijuana Act (hereinafter referred to as the “MMA”), Initiated Law 1 of 2008, MCL 333.26423, *et seq.*, and its administrative rules, R 333.101, *et seq.*
- B. Regulations for Qualifying Patients. The medical use of marijuana by a qualifying patient in that qualifying patient’s dwelling or an accessory building to that dwelling is hereby recognized as an accessory use to the principal residential use of the property and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:
1. The qualifying patient must be issued and at all times must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMA.
 2. All marijuana plants or products must be contained within the dwelling or accessory building in an enclosed, locked facility that permits access only by the qualifying patient.
 3. If a room with windows within the dwelling or accessory building is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
- C. Regulations for Primary Caregivers. The medical use of marijuana by a primary caregiver in a primary caregiver facility is hereby authorized as a use by right and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:
1. The primary caregiver must be issued and at all times must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMA.
 2. Except when being transported as provided in subsection 8 below, all marijuana plants or products must be contained within the primary caregiver facility in an enclosed, locked

facility that segregates the marijuana plants and products for medical use for each qualifying patient and that permits access only by the primary caregiver.

3. If a room with windows within the primary caregiver facility is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
4. No more than one (1) primary caregiver shall be permitted to provide primary caregiver services within a single primary caregiver facility.
5. Except for any qualifying patients who reside with the primary caregiver at the primary caregiver facility, no more than two (2) qualifying patients may be present at the same time at a primary caregiver facility for any purpose directly related to primary caregiver services. This subsection, however, shall not be construed to prohibit the presence of qualifying patients at a primary caregiver facility for purposes unrelated to primary caregiver services.
6. Qualifying patient visits to a primary caregiver facility shall be restricted to between the hours of 8 a.m. and 5 p.m., except when (a) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or (b) the qualifying patient visits are for purposes unrelated to primary caregiver services.
7. No qualifying patients under the age of 18 (eighteen) shall be permitted at any time at a primary caregiver facility, except when (a) in the presence of his/her parent or guardian, or (b) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or (c) the qualifying patient visits are for purposes unrelated to primary caregiver services.
8. No marijuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the primary caregiver facility, except to a qualifying patient who resides with the primary caregiver at the primary caregiver facility. Except as provided herein, the primary caregiver shall deliver all marijuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo. In addition, all marijuana for medical use delivered to a qualifying patient shall be packaged so the public cannot see or smell the marijuana.
9. No marijuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a primary caregiver facility, except by a qualifying patient who resides with the primary caregiver at the primary caregiver facility.
10. A primary caregiver shall display at the primary caregiver facility indoors and in a manner legible and visible to his/her qualifying patients:
 - a. A notice that qualifying patients under the age of eighteen (18) are not allowed at the primary caregiver facility, except when (a) in the presence of his/her parent or guardian, or (b) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or (c) the qualifying patient visits are for purposes unrelated to primary caregiver services, and
 - b. A notice that no dispensing or consumption of marijuana for medical use shall occur at the primary caregiver facility, except to or by a qualifying patient who resides with the primary caregiver at the primary caregiver facility.

11. A primary caregiver facility shall not have any signage visible from the outdoors that would indicate the nature of the primary caregiver services being conducted in the primary caregiver facility.
 12. A primary caregiver facility shall not be located within 660 feet of the lot on which another primary caregiver facility is located and shall not be located within 1320 feet of a lot on which any of the following uses are located:
 - a. Any church or place of worship and its accessory structures.
 - b. Any public or private school, having a curriculum including kindergarten through twelve grade and its accessory structures.
 - c. Any preschool, child care or day care facility and its accessory structures.
 - d. Any public facility, such as libraries, museums, parks, playgrounds, public beaches, community centers, and other public places where children may congregate.
 13. The portion of the primary caregiver facility, including any room or area utilized to grow marijuana for medical use, shall contain electrical service and wiring, certified by an electrician licensed in the State of Michigan, meeting the applicable requirements of the electrical code in effect in the Township.
- D. Relationship to Federal Law. Nothing within this section is intended to grant, nor shall it be construed as granting, immunity from federal law. (effective: June 14, 2012)

Section 3.26 - Incidental items not structures

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

Evangeline Township Shoreline Steep Slopes Map - Lake Charlevoix Shoreline



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

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

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

Evangeline Township Shoreline Steep Slopes Map - Walloon Lake Shoreline



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

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

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