

Chapter 11

SPECIAL LAND USES

SECTION 11.1 INTENT

This Chapter provides a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards herein are designed to allow, on one hand, practical latitude for the applicant but at the same time, maintain adequate provision for the protection of the health, safety, convenience and general welfare of Eureka Charter Township. For purposes of this Ordinance, all Special Land Uses within each Zoning District are subject to the conditions and standards of this Chapter.

SECTION 11.2 APPLICATION PROCEDURES

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

- A. An application shall be submitted through the Zoning Administrator on a form for that purpose and shall be accompanied by the payment of a fee as established by the Township Board and by site plans as specified in Chapter 4. In the event that both a rezoning and Special Land Use approval are required, the rezoning shall be completed prior to consideration of the Special Land Use.
- B. Review procedures are as follows:
 1. The Planning Commission shall hold a public hearing on the application, providing notice of such hearing in accordance with the Zoning Act.
 2. The Planning Commission shall review the application and such other information available to it through the public hearing or from any other source.
 3. The Planning Commission shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision into the meeting minutes.
 4. No petition for Special Land Use approval which has been disapproved shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the Zoning Administrator after learning of new and significant facts or conditions which may result in favorable action upon resubmission.

- C. A Special Land Use approved pursuant to this Chapter shall either be under construction, or operation begun within two years after the date of final approval of the Special Land Use by the Zoning Administrator.

SECTION 11.3 GENERAL STANDARDS

The following general standards, in addition to those specific standards established for certain uses, shall be satisfied before the Planning Commission makes a decision on a Special Land Use application:

- A. Each application shall be reviewed for the purpose of determining that the proposed special land use meets the Specific Standards of Section 11.4 and, in addition, that the special land use will:
 - 1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;
 - 2. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, lighting, noise, smoke, fumes, glare or odors; or
 - 3. Not be inconsistent with the intent and purposes of the Master Plan.
- B. The Planning Commission may stipulate such additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with such conditions may result in the revocation of the Special Land Use approval, pursuant to Section 11.2. Conditions imposed shall be those necessary to:
 - 1. Meet the intent and purpose of the Zoning Ordinance;
 - 2. Relate to the standards established in the Ordinance for the land use or activity under consideration with the subject application;
 - 3. Ensure compliance with those standards;
 - 4. Protect the general welfare;
 - 5. Protect individual property rights; and
 - 6. Ensure that the intent and objectives of this Ordinance will be observed.

SECTION 11.4 SPECIFIC STANDARDS FOR SPECIAL LAND USES

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

- A. Adult uses
- B. Bed and breakfast inns
- C. Collision repair (body shops)
- D. Commercial schools
- E. Golf courses
- F. Group day care homes – as defined by the State of Michigan
- G. Hospital for human care
- H. Indoor theaters and recreation centers such as bowling alleys, skating rinks and other similar uses
- I. Junkyards
- J. Mining and similar activities
- K. Museums and libraries
- L. Nursing or convalescent homes
- M. Open air businesses
- N. Outside storage businesses
- O. Public or private non-profit schools
- P. Retail businesses exceeding 250,000 square feet
- Q. State-licensed residential group home care facilities
- R. Towers in excess of 100 feet in height for Commercial Wireless Telecommunication Services
- S. Truck and freight terminals
- T. Warehousing, light processing, repackaging and distribution businesses
- U. Kennels
- V. Adult Dwelling Unit (ADU)

A. Adult Uses

1. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operations characteristics, particularly when several such uses are concentrated in certain areas, or when located in proximity to a Residential District, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The controls of this subsection are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential or other neighborhood. These controls do not legitimize activities which are prohibited in other sections of the Zoning Ordinance.
2. Adult uses are permitted if:
 - a. The use is located within a Zoning District where the use requires Special Land Use approval.
 - b. The use shall not be located within a 1,000 foot radius of any other adult use, public park, school, childcare facility or church.

- c. For massage parlors, all persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a school of massage therapy that is certified by the State of Michigan or have other similar qualifications which must be submitted to and approved by the Planning Commission. All massage clinics are subject to inspection from time to time by the Zoning Administrator and shall be required to file reports as may be required by the Township Board, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.
 - d. An annual Zoning Permit renewal and corresponding zoning inspection is required.
3. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval of the Planning Commission as provided herein. Further, if a use subject to the control of this subsection is discontinued for 12 consecutive months, the use may not be reestablished without applying for and receiving Special Land Use approval as required herein.
4. Any sign or signs proposed for an adult use business must comply with the requirements of this Ordinance's sign regulations, shall not include photographs, silhouettes, drawings or pictorial representations of any type, nor include any animated illumination or flashing illumination.
5. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering and exiting the business, and using lettering which is at least two inches in height, stating that:
 - a) "Persons under the age of 18 years are not permitted to enter the premises."
 - b) "No alcoholic beverages of any type are permitted on the premises unless specifically allowed pursuant to a license issued by the Michigan Liquor Control Commission."
6. No product for sale, rent or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
7. No adult use shall be open for business prior to 9:00 a.m. or after 11:00 p.m., however, employees or other agents, or contractors of the business, are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, clean-up, preparation, record-keeping and similar purposes.

8. An annual Township Zoning Permit, corresponding inspection(s) and corresponding Certificate of Occupancy and Use is required to assure compliance with this Section and this Ordinance.

B. Bed and Breakfast Inns

1. Such uses shall only be established in a detached single family dwelling.
2. The bed and breakfast inn shall be the principal residence of the operator.
3. The total number of guest rooms in the establishment shall not exceed seven.
4. Meals may be served only to the operator's family, employees and overnight guests.
5. Any accessory use(s) must comply with the Zoning District in which the property is located.

C. Collision Repair (body shops)

1. The storage area shall be screened from view around the entire periphery by a sight-obscuring wall or fence not less than seven feet in height, meeting the screening requirements of this Ordinance. Said wall or fence shall be of sound construction, painted and otherwise finished neatly and inconspicuously.
2. The area upon which vehicles and related materials are stored, including the main and accessory buildings, shall be located not closer than 500 feet to any public building, church, hospital, park, daycare center, or school, nor closer than 100 feet to any Residential District or use.
3. No part of the fence shall extend toward a road beyond the front wall of the main building. The exterior of the fenced-in area shall be screened with grass and trees and/or shrubs to minimize the appearance of the installation. Fencing shall be at least 25 feet from any other property line.
4. No storage shall be permitted outside the required fenced area and no materials shall be stacked higher than such fence.
5. All batteries, chemicals and other toxic or hazardous substances shall be removed from vehicles. Junk materials must be stored or disposed of in accordance with applicable State or Federal regulations.
6. All work on vehicles must be conducted inside the building.

D. Commercial Schools

1. Public access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

E. Golf Courses

1. Minimum lot size shall be 40 acres.
2. The main and accessory buildings shall be set back at least 75 feet from all property and right-of-way lines.
3. Retail sales and services only to guests and visitors may be permitted.
4. There will be no externally visible evidence of a commercial activity, however incidental.

F. Group Day Care Homes

1. An outdoor recreation area shall be provided at a ratio of 150 square feet for each client served and shall be enclosed with fencing having a minimum height of four feet.
2. Off-street parking shall be provided for family members and employees of the facility. Client pick-up and drop-off areas shall be located in such a manner that vehicles do not stop in the travel lane of the adjacent roadway and vehicles are not required to back into the roadway.
3. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
4. The facility shall be in compliance with all applicable State licensing requirements.

G. Hospitals

1. Minimum lot area shall be 10 acres and minimum lot width shall be 200 feet.
2. At least one property line shall abut an arterial or collector street, as designated by the Montcalm County Road Commission or the Michigan Department of Transportation. The ingress and egress for off-street parking facilities for guests, patients, employees and staff shall be directly from said street.
3. All main and accessory buildings shall be set back at least 100 feet from any property line.
4. Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses by a structure or sight-obscuring wall or fence of six feet or more in height. Access to and from the ambulance and delivery areas shall be directly from an arterial or collector street, as designated by the Montcalm County Road Commission or the Michigan Department of Transportation.
5. No power plant, laundry or loading area shall be located nearer than 100 feet to any adjacent Residential District or use.
6. No more than 25% of the gross site area shall be occupied by buildings, excluding parking structures.

H. Indoor Theaters and Recreation Centers, such as bowling alleys, skating rinks and other similar uses

1. Driveways serving the site shall be located at least 100 feet from any intersection (measured from the nearest right-of-way line to the nearest edge of said access).
2. The main and accessory buildings shall be located a minimum of 100 feet from the property line of any Residential District or use.
3. All uses shall be conducted completely within a fully enclosed building.

I. Junkyards

1. Minimum lot area shall be five acres.
2. The storage area shall be screened from view around the entire periphery by a sight-obscuring wall or fence not less than seven feet in height and meeting the screening requirements of this Ordinance. Said wall or fence shall be of sound construction, painted and otherwise finished neatly and inconspicuously.
3. The area upon which junk materials are stored, including the main and accessory buildings, shall be located not closer than 500 feet to any public building, church, hospital, park, day care center or school, or closer than 100 feet to any Residential District or use.
4. All buildings shall be set back not less than 50 feet from any property line. Fenced areas shall not be located closer than 150 feet from any right-of-way line and 50 feet from any other property line. Such required setback areas shall be planted with trees, grass and shrubs to minimize the appearance of the installation.
5. No storage shall be permitted outside the required fenced area and no materials shall be stacked higher than such fence.
6. All batteries, chemicals and other toxic or hazardous substances shall be removed from vehicles and other junk materials and shall be stored or disposed of in accordance with applicable State or Federal regulations.

J. Mining and Related Activity

1. Mining, a Special Land Use is required for mining in any zoning district.
2. Operation shall take place during daylight hours.
3. Truck routes shall be established by the Planning Commission with advice from the Montcalm County Road Commission and/or the Michigan Department of Transportation in order to minimize the wear on public streets and to avoid residential areas.
4. Sensory perception for sound, vibration, light, dust, smoke, fumes and odor shall not exceed the following performance standard, measured at the common property lines:
 - a. Sound intensity levels shall not exceed the following;
 - 55 decibels when adjacent to Residential Districts.
 - 65 decibels when adjacent to Commercial Districts.
 - 79 decibels when adjacent to Industrial Districts.
 - Objectionable, intermittent or shrill noise shall be muffled.

b. Smoke, dust or dirt, other than water vapor, shall not be discharged into the air for more than four minutes in any one-half hour which exceeds the shade designated as NO. 2 on the Ringelmann Chart, published by the United States Bureau of Mines and/or when correlated with the Umbra scope for smoke densities. The quantity of airborne solids shall not exceed 0.02 grains per cubic foot at a temperature of 500 degrees Fahrenheit.

K. Museums and Libraries

1. The main and accessory buildings shall be located a minimum of 100 feet from any Residential District or use.
2. All uses shall be conducted completely within a fully enclosed building.

L. Nursing or Convalescent Homes

1. Minimum lot size shall be three acres.
2. The main and accessory buildings shall be set back at least 75 feet from all property lines.
3. The facility shall be designed to provide a minimum of 500 square feet of open space for every bed used or intended to be used. This open space shall include landscaping but may not include off-street parking, driveways, required yard setbacks and accessory use areas.

M. Open Air Businesses

1. Minimum lot size shall be one acre.
2. The Planning Commission may require a six-foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper and other debris from blowing off the premises.
3. Open air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.
4. The lot area used for display or storage areas shall be provided with a permanent, durable, dustless surface and shall be graded and drained so as to dispose of all surface water.
5. In the case of a plant materials nursery:
 - a. The storage or materials display areas shall meet all yard setback requirements applicable to any buildings in the District.
 - b. All loading activities and parking areas shall be provided on the same premises (off-street).
 - c. The storage of any soil, fertilizer or similar loosely-packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
6. No display area shall be located within the required front yard.
7. Activity must be located not less than 200 feet from a Residential District or existing residential use.

N. Outside Storage Businesses

1. Sight-obscuring fencing must be installed outside the storage area.
2. No part of the fence shall extend toward a road beyond the front wall of the main building. The exterior of the fenced-in area shall be screened with grass and trees and/or shrubs to minimize the appearance of the installation.
3. Nothing being stored can be stacked higher than the fence.
4. Nothing may be stored outside the fenced area.
5. Vehicles in storage must be able to be licensed and/or titled including watercraft. Inoperable vehicles may not be stored.
6. Items must be stored in an orderly fashion so the surrounding neighborhood shall not be negatively impacted.

O. Public or Private Non-Profit Schools

1. Minimum lot size for elementary schools shall be 20 acres, middle schools shall be 30 acres and high schools shall be 40 acres.
2. Athletic fields shall not be located closer than 200 feet from any property line abutting a Residential District or use.
3. A greenbelt may be required in accordance with the landscaping requirements of this Ordinance.

P. Retail businesses exceeding 250,000 square feet gross floor area conducting business entirely within an enclosed building

1. Public access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.
2. Any principal building shall have side and rear yard setbacks of at least 50 feet.
3. The Planning Commission may require landscaping in accordance with the landscaping requirements of this Ordinance, or a six-foot fence or wall along the rear and/or sides of the lot to keep trash, paper and other debris from blowing off the premises.
4. No mechanical rooms or loading areas shall be located nearer than 200 feet to any Residential District or use.
5. Any loading area facing a Residential District or use shall be screened by a major buffer, as defined by the landscaping requirements of this Ordinance. Loading areas shall not be located within any required yard and may not be located in the front yard.
6. Any lot on which such use is conducted shall have at least 300 feet of frontage on an arterial street as designated by the Montcalm County Road Commission or the Michigan Department of Transportation.

Q. State-Licensed Residential Group Home Care Facilities

1. Off-street parking shall be provided for family members and employees of the facility. Client pick-up and drop-off areas shall be located in a manner that vehicles do not stop in the travel lane of the adjacent roadway and vehicles are not required to back into the roadway.
2. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
3. The facility shall be in compliance with all applicable State licensing requirements.

R. Towers in Excess of 100 Feet in Height for Commercial Wireless Telecommunication Services

1. Antennas for Commercial Wireless Telecommunication Services shall be required to locate on any existing or approved Commercial Wireless Telecommunication Services tower within a one-mile radius of the proposed tower unless one of more of the following conditions exists:
 - The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and registered professional engineer, and the existing or approved tower can not be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - The planned equipment would cause interference materially affecting the usability of other existing or planned equipment at the tower or building as documented by a qualified and registered professional engineer and the interference can not be prevented at a reasonable cost.
 - Existing or approved towers and buildings within a one-mile radius can not accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and registered professional engineer.
 - Other unforeseen reasons that make it unfeasible to locate the planned equipment upon an existing tower or building.
2. Any proposed tower for Commercial Wireless Telecommunication Services shall be designed structurally, electrically and in all other respects to accommodate both the applicant's equipment and comparable equipment for at least two additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at various heights.
3. Towers for Commercial Wireless Telecommunication Services shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by other State or Federal authorities. Towers shall be of a

monopole design unless the Planning Commission determines that an alternative design would better blend into the surrounding environment.

4. Any part of the structure or equipment placed on the ground pertaining to the tower for Commercial Wireless Telecommunication Services shall be set back for a distance equal to the setbacks for main buildings for the District in which it is located, except that in no case shall such structure or equipment be located less than 25 feet from any adjacent lot line or main building. This provision shall not apply to towers located on existing buildings, towers or other existing structures. The Planning Commission may require such structures or equipment on the ground to be screened in accordance with the landscaping requirements of this Ordinance.
5. Towers for Commercial Wireless Telecommunication Services shall not be illuminated unless required by other State or Federal authorities. No signs or other advertising not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings.
6. Towers for Commercial Wireless Telecommunication Services which are abandoned or unused shall be removed, along with any associated structures or equipment, within 12 months of the cessation of operations unless a time extension is granted by the Zoning Administrator. Only one three-month extension shall be permitted and then only if the Zoning Administrator finds that the owner or former operator of the facility is taking active steps to ensure removal.
7. The Planning Commission shall not approve any tower for Commercial Wireless Telecommunication Services if any part of it is located within 200 feet of any Residential District lot line.

S. Truck and Freight Terminals

1. Access driveways shall be located no less than 100 feet from the centerline of the intersection of any street or any other driveway.
2. Trucks and trailers parked overnight shall be set back a minimum of 100 feet from the front lot line.
3. The principal and accessory buildings and structures shall not be located within 200 feet of any Residential District or use.
4. The lot area used for parking, display or storage shall be provided with a permanent, durable, dustless surface and shall be graded and drained so as to dispose of all surface water.
5. Any vehicle or equipment stored outside of an enclosed building shall not extend into any required yard.

T. Warehousing, light processing, repackaging and distribution businesses

1. Permitted uses are intended to provide for various types of light industrial and manufacturing uses, wholesale businesses, warehouses and other uses compatible with surrounding land uses with the absence of

objectionable external effects including open fires, smoke, glare and heat, toxic and noxious matter, offensive noise, vibration, odor and other hazards.

2. Permitted uses are characterized by low maximum usable floor area percentages, substantial setbacks, environmental sensitivity and creative site design. Regulations are defined to exclude uses that would have a detrimental effect upon the orderly development and function of the district and surrounding land uses.
3. Principal uses: Except as otherwise expressly permitted by this Chapter, no building or part of a building shall be used, erected, altered or converted on land used in whole or in part except for:
 - a. Agricultural products such as production in greenhouses of flowers, plants, shrubs, trees or other similar living products.
 - b. Food or kindred products including bakery, confectionary and similar products.
 - c. Cosmetics, pharmaceuticals and toiletries.
 - d. Printing, publishing and allied industries.
 - e. Electrical machinery, equipment and supplies, electronic components and accessories.
 - f. Engineering, measuring, optical, medical, scientific, photographic and similar instruments and goods.
 - g. Manufacturing, processing, packaging or assembling paper and paperboard containers and products, glass products, jewelry, silverware and plated ware, musical instruments and parts, toys, amusement, sporting and athletic goods, pens, pencils and other office and artist supplies and materials, notions, signs and advertising displays.
 - h. Warehousing, refrigerated and general storage.
 - i. Research and development facilities, including production activities, limited to 50% of the floor area of the principal building.
4. All permitted uses shall be conducted wholly within an enclosed building, except for loading and unloading operations and the on-site parking of vehicles.
5. Outside storage of materials, equipment or vehicles is permitted subject to the following restrictions:
 - a. Materials may only be stored in the side and rear yards except that materials may not be stored on the street side of a corner lot.
 - b. All storage of materials shall be visually screened to a height of at least six feet above the elevation of the nearest adjacent road or property. Screening shall consist of a decorative fence, wall or greenbelt or a combination of these materials.
 - c. In no case shall outside storage be stacked higher than the height of the visual screen.
 - d. No parking of vehicles shall be permitted within the front yard.

Specific Standards for Warehousing, Light Processing, Repackaging and Distribution Businesses recommended by Planning Commission on 12-19-07 and approved by Township Board on 1-14-08.

U. Kennel

1. Kennels shall be permitted with no restriction on acreage.
2. Kennels shall have a Kennel permit issued from Montcalm County and be in good standing with the County Animal Control Department.
3. Minimum set back standards for kennels shall be 100' from all property lines.
4. If it is documented that the animals are barking for more than 2 hours over the course of 5 separate days, the special use permit is subject to revoking of the special use permit. Documented barking is where the County Sheriff has witnessed continued barking.

V. Adult Dwelling Unit (ADU)

1. The ADU is temporary in nature and a relative or legal designated dependent shall be identified as being cared for in this living unit. Once the relative or dependent is no longer residing in the unit the unit shall be returned to the living space of the principal dwelling with any exterior access to the ADU removed.
2. ADU's shall be attached to the principal residence and shall be a maximum of 400 sq. ft. with a minimum five (5) foot common wall and 36" clear span door having a 1 ½ hour Fire rating between the principal residence and the ADU, which shall include the attic.
3. The ADU shall meet all set back standards for the principal residence.
4. The ADU shall appear as part of the principal residence with the same building style and appear as part of the principal residence.
5. Annually, the owner of the principal residence shall sign an affidavit stating which relative or legal dependent is currently residing within the ADU. If no one is residing in the ADU it shall be reverted to a room or rooms within the principal residence with any exterior entrances removed.
6. The ADU shall not be used as a second residence other than as listed above, and under no circumstances shall the unit be rented.
7. Prior to issuance of a Special Use Permit, the owner of the principal residence shall receive approval for any additional water or sewer additions from the Mid-Michigan Health Department, and if the system needs to be expanded, a permit shall be obtained from the Department prior to issuance of the Special Use Permit.