

## **Chapter 2**

### **DEFINITIONS**

#### **SECTION 2.0 CONSTRUCTION OF LANGUAGE**

The following rules apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference in meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future, and words used in the singular shall include the plural and the plural the singular unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.
- G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:
  1. "And" indicates that all connected items, conditions, provisions or events shall apply.
  2. "Or" indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. Terms not herein defined shall have the meaning customarily assigned to them.

#### **SECTION 2.1 DEFINITIONS – A**

**ACCESSORY RESIDENTIAL GARAGE** – A garage for your vehicles. It is considered attached if it has a common wall with your house or is connected to your house by a breezeway which is under 20 feet long. If your garage is not attached in this manner, it is considered to be "detached". If it is a detached residential garage it will be used in computing the total square footage allowed for the size of your parcel as located in Section 3.8 of this ordinance.

**ACCESSORY STORAGE BUILDING** – An accessory building used to store goods and materials owned by the occupant of the principal building. The square footage of the storage building will be used in computing the total square footage allowed for the size of your parcel as located in Section 3.8 of the ordinance.

**ACCESSORY SUPPLEMENTAL STRUCTURE DETACHED** – This is a structure not used for storage but for recreational or hobby purposes such as a greenhouse, deck, gazebo, school bus wait and such structures. No more than 3 detached supplemental accessory structures shall be permitted. The total floor of each supplemental accessory structure shall not exceed 200 sq. ft.

**ACCESSORY USE OR ACCESSORY** –A use of a lot which is clearly incidental to the principal use and customarily found in connection with the main building. When “accessory” is used in this text, it shall have the same meaning as accessory use.

**Adult Dwelling Unit. (ADU)** A separate temporary additional living unit subordinate to the principal residence which may include separate kitchen, sleeping, and bathroom facilities attached to the primary residential unit on a single-family lot, and used to care for an aging relative or legal designated dependent. ADU are also known as “mother-in-law apartments”.

**ADULT USE** – An enclosed building used for an adult bookstore, adult live entertainment theater, massage parlor or adult motion picture theater.

- A. **ADULT BOOKSTORE** – An enclosed building used for the sale of motion picture films, video cassettes, magazines, posters and other printed material or tapes, or sex objects for other than contraceptive purposes, distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined in this Ordinance, for sale, lease or gift to patrons therein.
- B. **ADULT LIVE ENTERTAINMENT THEATER** – An enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see-through clothing which permits the view of “specified anatomical areas”, individuals who are partially clothed and partially unclothed so as to permit the view of “specified anatomical areas”, or individuals conducting “specified sexual activities”.
- C. **ADULT MOTION PICTURE THEATER** – An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in this Ordinance, for observation by patrons therein.
- D. **MASSAGE PARLOR** – Any establishment having a fixed place of business where massages are administered for pay, including but not limited to, massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational or athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:

- i. Proof of graduation from a school of massage licensed by the State of Michigan;
  - ii. Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
  - iii. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation or any other recognized massage association with equivalent professional membership standards; or
  - iv. A current occupational license from another state.
- E. SPECIFIED ANATOMICAL AREAS
- i. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
  - ii. Human male genitals in a discernable turgid state, even if completely and opaquely covered.
- F. SPECIFIED SEXUAL ACTIVITIES
- i. Human genitals in a state of sexual stimulation or arousal;
  - ii. Acts of human masturbation, sexual intercourse or sodomy;
  - iii. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

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

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

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

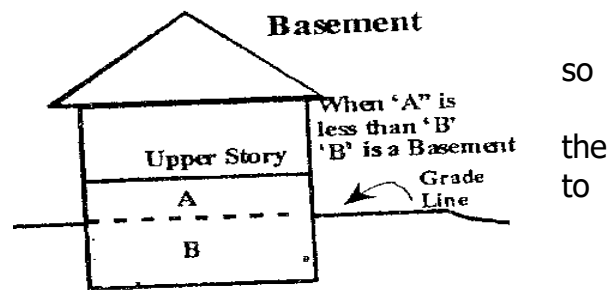
**AUTOMOBILE SERVICE AND REPAIR FACILITY**- Building and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires and other similar motor vehicle accessories, along with minor vehicle repair, such as changing of oil, tire repair, engine tune-ups and other similar activities.

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

## SECTION 2.2

## DEFINITIONS – B

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



**BED AND BREAKFAST INN** – A house, portion thereof, where short-term lodging rooms and meals are provided as a commercial operation.

or

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

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

**BODY SHOP** – Any building, premises or land in which or upon which the primary use is the servicing, major repair or painting of motor vehicles.

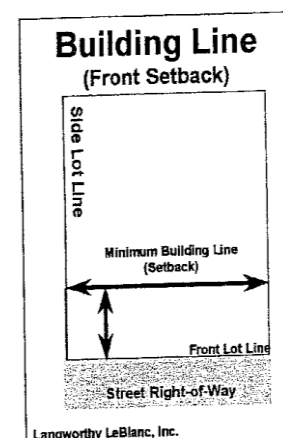
**BUFFER ZONE** – A strip of land of definite width and location required between certain Zoning Districts reserved for the planting of shrubs, trees or grasses; berms; walls; or fencing to serve as a visual and noise barrier or an obscuring screen necessary to carry out the requirements of this Ordinance.

**BUILDABLE LOT** – A buildable lot is a lot that meets all requirements as identified in Chapter 3 GENERAL PROVISIONS.

**BUILDING** - A structure erected on-site, pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

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

**BUILDING LINE** – A line formed by the walls of the building, or the most horizontal appendage of the building



(except as otherwise permitted herein). For the purposes of this Ordinance, a minimum building line is the same as the front setback.

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

## **SECTION 2.3 DEFINITIONS – C**

**CERTIFICATE OF OCCUPANCY AND USE** – A document signed by an authorized Township official as a condition precedent to the commencement of a use or the occupation of a structure or building which acknowledges that such use, structure or building complies with the provisions of the Zoning Ordinance and Building Code.

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

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

1. A primary caregiver (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 *et seq.*, as amended).
2. A qualifying patient (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 *et seq.*, as amended.)
3. Members of the general public.

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

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

**COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICES** – Licensed telecommunications services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

**COMMISSION** – The Eureka Charter Township Planning Commission.

**CONVALESCENT OR NURSING HOME** – A structure with sleeping rooms where persons are housed or lodged on a fulltime basis and are furnished with meals, nursing and medical care.

## **SECTION 2.4                      DEFINITIONS – D**

**DAY CARE FACILITY** – A facility other than a private residence, licensed by the Michigan Department of Social Services, in which one or more children are given care and supervision for periods of less than 24 hours per day, and where a parent or legal guardian is not immediately available to the child. Day care facility includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day.

Day care facility does not include a Sunday school, a vacation Bible school or a religious class that is conducted by a religious organization where children are in attendance for not greater than four hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks during a 12-month period, or a facility operated by a religious organization where children are cared for not greater than four hours while persons responsible for the children are attending religious classes or services.

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

**DRIVE-THROUGH; DRIVE-THROUGH FACILITY** – A business establishment or use so developed that it provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food carry-out.

**DWELLING, MULTIPLE FAMILY** – A dwelling or a portion of a building designed exclusively for occupancy by three or more families living independently of each other.

**DWELLING, SINGLE FAMILY DETACHED** – A dwelling designed exclusively for and occupied exclusively by one family.

**DWELLING, TWO-FAMILY** – A dwelling designed exclusively for occupancy by two families living independently of each other.

## **SECTION 2.5                      DEFINITIONS – E**

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

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

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

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

## **SECTION 2.6                      DEFINITIONS – F**

### **FAMILY**

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

is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

**FARM** – Contiguous, adjoining, neighboring or associated lands or properties, operated as a single unit or operation, by the owner-operator, manager or tenant-farmer utilized for non-commercial or commercial agricultural purposes. A farm may include buildings and structures necessary for the storage or housing of farm implements or vehicles, farm products, crops, animals or otherwise used in the agricultural operation.

Operations include the use, processing, raising or growing of plants and animals useful to human beings produced by agriculture and can include, but is not limited to, forages and crops, grain and feed crops, field crops, cattle, dairy cows, dairy products, poultry and poultry products, cervidae, livestock, equine/horses, bison, veal, swine, sheep and goats, rabbits, mink and fox, South American camelids, fish and other aqua cultural products, bees and bee products, apiaries, fruits, vegetables, flowers, seeds, grasses, mushrooms and other similar products or any other product which incorporates the use of food, feed, fiber or fur as identified by the Michigan Department of Agriculture.

- **Commercial Farm:** A farm operated for profit or commercial applications and required to file an IRS Schedule F or other Profit/Loss Statement as required by state and Federal Regulations. The owner shall produce evidence to support its commercial operations, assertions or status, and is protected by the Right to Farm Act (RFTA) and shall comply with the Generally Accepted Agricultural and Management Practices (GAAMP's) as enacted by the Michigan Department of Agriculture.
- **Noncommercial Farm:** A farm of non-commercial nature that is intended solely for the use of the person or family involved, where no financial profit or loss statement is required to be reported to the State of Michigan or the IRS. Examples could be the raising of horses, chickens, pigs, rabbits, other livestock, gardens, and crops for personal use. These practices are not protected by the RTFA, and are fully regulated by this ordinance.

**FIREWORKS** - A combustible or explosive device for producing a striking display of light or a loud noise, used for signaling or as part of a celebration.

- **Consumer Fireworks** – aerial, roman candles, bottle rockets, firecrackers, helicopter/aerial spinners, reloadable shell devices, missile type devices single tube devices with report, and other items that leave the ground. Also called Class C fireworks and cannot contain more than 50 mg of explosive materials. These devices are most commonly sold at neighborhood stands during the Fourth of July season. Sellers of consumer fireworks must register with the Michigan Department of Licensing and Regulatory Affairs (LARA).
- **Low Impact Fireworks** – such as ground-based and some hand-held sparklers, sparkling wheel devices, ground sparkling devices, and smoke devices with less than 500 g. of explosive mixture remain legal for sale and use. Sellers of low impact fireworks must also register with LARA.



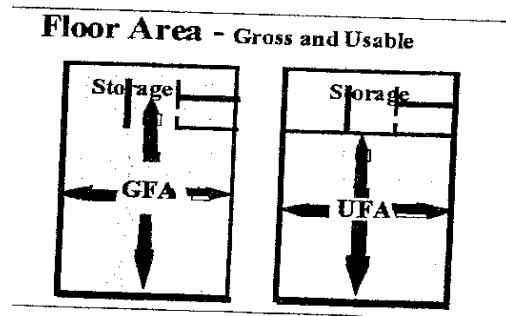
- **Novelty Fireworks** – are lawful for sale and use. They include snappers, drop pops, snakes, party poppers, smoke balls, and sparkling devices that are not low impact fireworks.
- **Display Fireworks** – Large and explosive items typically used at Fourth of July or other celebrations by professionals. These require a permit from the Township, as well as applicable permits from the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Federal regulations at 27 CFR, Part 555, require that any person engaging in the business of importing, manufacturing, dealing in, or otherwise receiving display fireworks must first obtain a Federal explosives license or permit from ATFA for the specific activity.

**FLOOR AREA, GROSS (GFA)** – The sum of the horizontal areas of the several floors of all buildings on a lot, measured from the exterior faces of exterior walls.

**FLOOR AREA, USABLE (UFA)** – That area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Floor area which is used or intended to be used

principally for the storage or processing of merchandise, for hallways or for utilities or sanitary facilities shall be excluded from the computation of usable floor area.

Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.



**FRONTAGE** – See “LOT WIDTH”.

## **SECTION 2.7 DEFINITIONS – G**

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

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

## SECTION 2.8

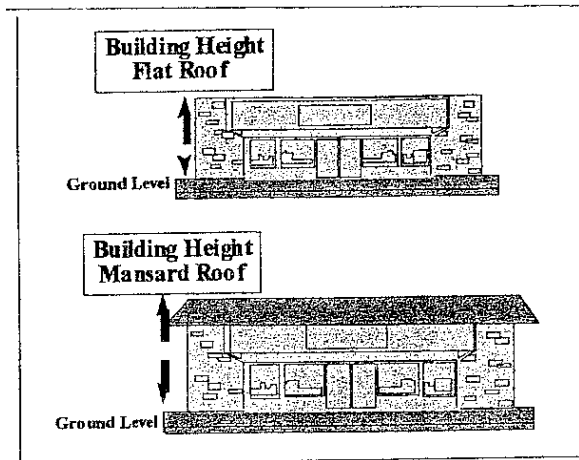
## DEFINITIONS – H

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

**HOME OCCUPATION** – An occupation or profession that is clearly a customary, incidental and secondary use of a residential dwelling unit or its accessory building.

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

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



## SECTION 2.9

## DEFINITIONS – I

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

## SECTION 2.10

## DEFINITIONS – J

**JUNK** – See Eureka Charter Township's "BLIGHT ORDINANCE".

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

**SECTION 2.11 DEFINITIONS – K**

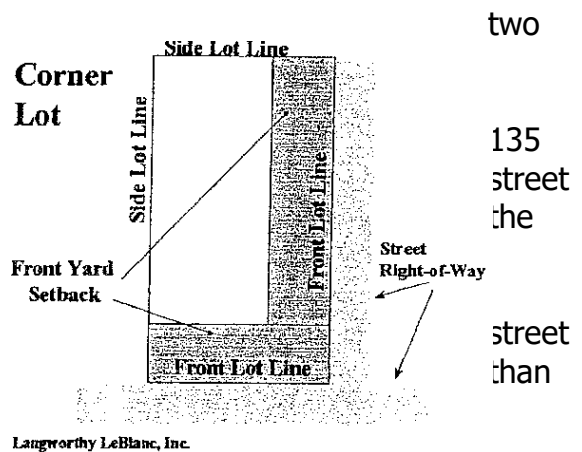
**KENNEL** – Any lot or premises on which three (3) or more dogs over the age of four months old of the same breed, are confined and kept for Commercial purposes such as breeding, hunting, sales, sporting and training purposes.

**SECTION 2.12 DEFINITIONS – L**

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

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

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



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

**LOT, INTERIOR** – A lot other than a corner, cul-de-sac or through lot.

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

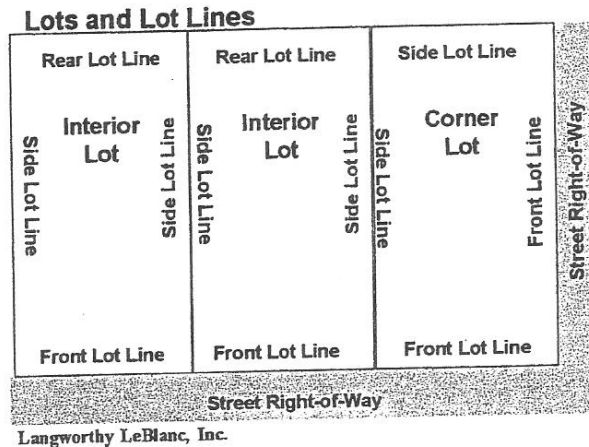
**LOT AREA** – The total horizontal area within the lot lines.

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

**LOT DEPTH** – The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

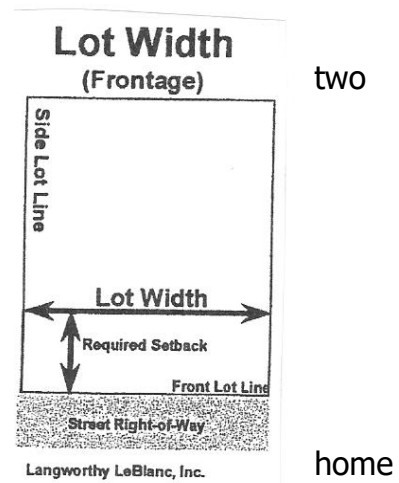
**LOT LINES** – The lines bounding a lot as defined herein:

- A. **FRONT LOT LINE** – The line separating the lot from the street right of way. In the case of a through or corner lot, the line separating said lot from either street right of way.
- B. **REAR LOT LINE** – That lot line opposite the front lot line. In the case of a lot which is pointed in shape at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet long, lying farthest from the front lot line and wholly within the lot.
- C. **SIDE LOT LINE** – Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot is an interior side lot line.



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

**LOT WIDTH (FRONTAGE)** – The horizontal straight line distance between the side lot lines, measured between the points where the front setback or minimum building line intersects the side lot lines.



**SECTION 2.13 DEFINITIONS – M**

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

**MANUFACTURED HOME** – A transportable, factory-built designed to be used as a year-round residential dwelling.

**MANUFACTURED HOME PARK** – A parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of

whether a charge is made thereof, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a manufactured home and is not intended for use as a temporary trailer park.

**MESSAGE PARLOR** – See “ADULT USES”.

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

## **SECTION 2.14                      DEFINITIONS – N**

**NONCONFORMING BUILDING** – A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto and not conforming to the provisions of the Zoning Ordinance in the District in which it is located.

**NONCONFORMING LOT OF RECORD** - A lot of record lawfully existing at the effective date of this Ordinance or amendments thereto and not conforming to the provisions of the Zoning Ordinance in the District in which it is located.

**NONCONFORMING USE** – A use or activity which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto and which does not conform to the use regulations of the District in which it is located.

## **SECTION 2.15                      DEFINITIONS – O**

**OFF-STREET PARKING LOT OR PARKING GARAGE** – A facility providing parking spaces along with adequate drives, maneuvering areas and aisles for the parking of more than three vehicles.

**OPEN AIR BUSINESS** – Retail sales establishments operated substantially in the open air including, but not necessary limited to:

- A. Bicycle, utility truck or trailer, motor vehicle, boat or home equipment sales, repair, storage or rental services.
- B. Outdoor display area, storage or sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumber yards.

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

## **SECTION 2.16                      DEFINITIONS – P**

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

**PERSONAL SERVICE ESTABLISHMENT** – A commercial business conducting services that are performed primarily on the premises.

**PLANNED UNIT DEVELOPMENT (PUD)** – A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The Planned Unit Development may include streets, circulation ways, utilities, buildings, open spaces and other site features and improvements.

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

**PLATTED SUBDIVISION** – Residential development comprised of partitioning or splitting a tract of land or parcel into individual privately-owned lots meeting all requirements of the Michigan Land Division Act 288 of 1967 as amended (previously known as the Michigan Subdivision Control Act of 1967).

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

**PRINCIPAL USE** – The primary use to which the premises is devoted.

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

## SECTION 2.17

## DEFINITIONS – R

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

- A. A vehicle primarily designed and used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper;
- B. Boats and trailers designed to transport boats;
- C. Snowmobiles, jet skis and trailers designed to transport them;
- D. Off-road vehicles and trailers designed to transport off-road vehicles;
- E. Pop-up tent and trailer campers;
- F. Other similar vehicles deemed by the Zoning Administrator to be recreational vehicles except that this term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for daily on-street use.

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

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

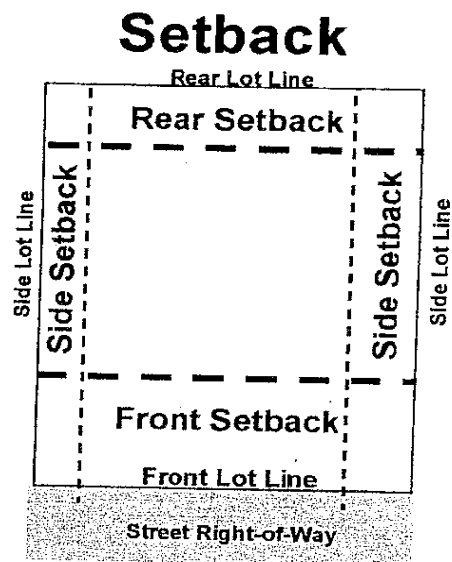
## SECTION 2.18

## DEFINITION - S

**SATELLITE DISH ANTENNA** – An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.  
**SETBACK**- The distance established by this Ordinance as necessary to meet the minimum front, side or rear yard provisions of the Zoning District.

**SIGN** – A lettered board, drawing, message, placard, poster or other device visible to the general public and designed to inform or attract the attention of persons.

**SIGNIFICANT NATURAL FEATURE** – A natural area as designated by the Planning Commission, Township Board or the Michigan Department of



Langworthy LeBlanc, Inc.

Natural Resources, or other applicable State or Federal agency, which exhibits unique topographic, ecological, hydrological, cultural or historical characteristics such as a wetland, floodplain, water features or other unique natural or cultural features.

**SITE CONDOMINIUM** – Residential development comprised of a Master Deed over the entire Site Condominium with privately-owned (deeded) or rented building portions and commonly-owned elements within the project, meeting all requirements of the Michigan Condominium Act 59 of 1978 as amended.

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

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

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

**SPECIFIED ANATOMICAL AREAS** – See "ADULT USES".

**SPECIFIED SEXUAL ACTIVITIES** – See "ADULT USES".

**STATE LICENSED RESIDENTIAL CARE FACILITY** – A facility defined as an adult foster care facility by the Adult Foster Care Licensing Act, Act No. 218 of the Public Acts of Michigan for 1979, as amended, having as its principal function the receiving of adults for foster care and licensed by the State under the Act. It shall include facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. It shall not include an establishment commonly described as an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home or a hotel or rooming house that does not provide or offer to provide foster care.

- A. A State Licensed Residential Family Care Facility is a State Licensed Residential Care Facility which provides resident services or care for six or fewer persons.
- B. A State Licensed Residential Group Care Facility is a State Licensed Residential Care Facility which provides resident services or care for more than six persons.
- C. The State Licensed Residential Family Care licensee shall be a member of the household and an occupant of the residence, but shall not be counted toward the total number of residents for purposes of the definition of the facility.



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

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

**STREET** – The term “street” shall be synonymous with the terms road, avenue, place, way, drive, boulevard, trail, highway or other thoroughfare.

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

**STREET, PRIVATE** – An undedicated, privately-controlled and maintained right-of-way, easement or other interest in land which affords the principal means of access to one or more lots or parcels.

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

**STRUCTURE** – Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground.

**SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 30% of the market value of the structure, either before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

## **SECTION 2.19                      DEFINITIONS – T**

**TOWNSHIP BOARD OR TOWNSHIP BOARD OF TRUSTEES** – The Eureka Charter Township Board of Trustees.

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

**SECTION 2.20                      DEFINITIONS – V**

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

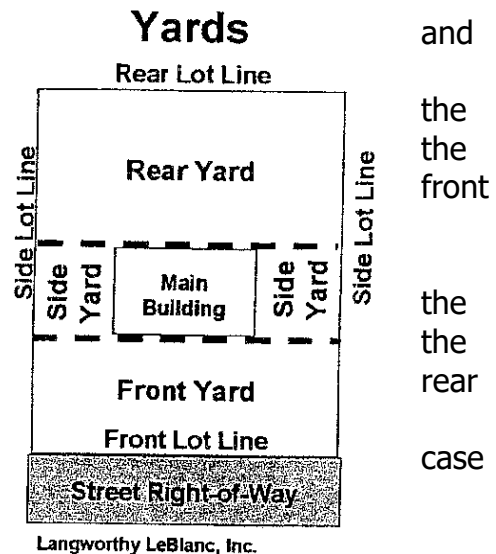
**SECTION 2.21                      DEFINITIONS – W**

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

**SECTION 2.22                      DEFINITIONS – Y**

**YARDS** – The open spaces on the same lot with a main building that are unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, as defined herein:

- A. **FRONT YARD** - An open space extending full width of the lot, the depth of which is minimum horizontal distance between the lot line and the nearest horizontal appendage of the main building.
- B. **REAR YARD** – An open space extending full width of the lot, the depth of which is minimum horizontal distance between the lot line and the nearest horizontal appendage of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- C. **SIDE YARD** – An open space between a building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest horizontal appendage of the main building.



**YARD, REQUIRED** – The required yard shall be that which is set forth in the Eureka Charter Township Zoning Ordinance as the minimum setback requirement for each district. The required yard is measured from the lot line to the building line or setback line. See also "SETBACK", "BUILDING LINE".

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

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

**SECTION 2.23                      DEFINITIONS – Z**

**ZONING ACT, TOWNSHIP ZONING ACT** – Act 184 of the Michigan Public Acts of 1943, as amended, known as the Township Zoning Act.

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

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