

FINAL

**As approved by the Planning Commission February
11th, 2009 & Recommended for Adoption to the
Township Board**

CHARTER TOWNSHIP OF MARQUETTE

ACCESS CONTROL

AND

LAND DEVELOPMENT ORDINANCE NO. _____

ADOPTED: _____

EFFECTIVE DATE: _____

PREPARED FOR:

**THE CHARTER TOWNSHIP OF MARQUETTE BOARD
MARQUETTE, MI 49855**

UNDER THE DIRECTION OF:

THE MARQUETTE TOWNSHIP PLANNING COMMISSION

ARTICLE I - GENERAL PROVISIONS

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GENERAL PROVISIONS

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ARTICLE I - GENERAL PROVISIONS

ENACTING CLAUSE

THE CHARTER TOWNSHIP OF MARQUETTE ORDAINS:

SECTION 1.01: SHORT TITLE

This Ordinance shall be known as the **Charter Township of Marquette Access Control and Land Development Ordinance**.

SECTION: 1.02: REPEAL OF PRIOR ORDINANCES

The previous Charter Township of Marquette Subdivision Control Ordinance, Ordinance No. _____, together with any amendments thereto, is hereby repealed; however this section shall not be construed to repeal any provision in any applicable Zoning Ordinances, Building Codes or other ordinances of the Charter Township of Marquette that shall remain in full force and effect notwithstanding any land division approval hereunder.

SECTION 1.03: PURPOSE

- A. This Ordinance is enacted to control and regulate Platted Subdivisions, Condominium Developments and Land Divisions, and to establish Private Road Standards and Maintenance Requirements. The general purposes of this ordinance are to:
1. Provide for orderly growth and harmonious development within the community.
 2. Provide for the health, safety and welfare of residents and property owners within the Charter Township of Marquette.
 3. Ensure that public and emergency services can safely enter and exit private property at all times.

SECTION 1.04: INTENT

The primary intent of this Ordinance is to guide and outline procedures for the subdivision of land into plats in accordance with the requirements of the Land Division Act, Public Act 288, 1967, as amended, to regulate the development of land within the Township in accordance with the provisions of the Condominium Act, Public Act 59, 1978, as amended, to outline necessary procedures for approval of partitioning or division of parcels or tracts of land in accordance with the requirements set forth in the Land Division Act and to ensure that all private roads will be approved in accordance with the requirements set forth in Article III, of this ordinance, Private Road Requirements, and will be maintained exclusively by the benefitting, private property owners.

ARTICLE I - GENERAL PROVISIONS

SECTION 1.05: DESIGNATED AUTHORITY

The Charter Township of Marquette Township Board, Planning Commission and/or Zoning Administrator are hereby designated as the approving and/or recommending authorities as specified in the Articles and Sections of this Ordinance.

SECTION 1.06: APPLICATION

Except as otherwise provided for by preemptive law having authority over Charter Township of Marquette ordinances or as provided for in this Ordinance, no building, structure, development, or land use shall be commenced, altered, expanded, continued, used, or occupied unless it is in compliance with the applicable regulations and requirements of this Ordinance and in accordance with permits and stated conditions, issued hereunder.

SECTION 1.07 VESTED RIGHT

Nothing in this Ordinance shall be interpreted or construed to give rise to permanent vested rights in the continuation of any particular use, lot, unit, parcel, tract, road, driveway, or any permissible activities therein. Any part of this Ordinance may be amended by the appropriate authority when deemed reasonable for the preservation of the public health, safety, and general welfare.

SECTION 1.08 SEVERANCE

This Ordinance and the various Articles, Sections, subsections, provisions, sentences and clauses are severable. If any part of this Ordinance is found to be unconstitutional or invalid it is declared that the remainder of the Ordinance shall not be affected.

SECTION 1.09: RELATIONSHIP TO OTHER LAWS

Whenever regulations or requirements imposed by this Ordinance are either more or less restrictive than regulations imposed by any other governmental authority through legislation, rule, or regulation, the most restrictive, which impose the highest standards, shall govern. Regardless of any other provision of this Ordinance, no land shall be used, nor structure erected or maintained, nor access way constructed in violation of any Federal, State, or County pollution control, health, or environmental protection law or regulation.

SECTION 1.10: RELATIONSHIP TO TEXT AND ATTACHMENTS

In the case of a difference of meaning or implication between the text of this Ordinance and any caption, illustration, table, or Administrative Procedural Guide the text shall control.

ARTICLE I - GENERAL PROVISIONS

SECTION 1.11: ADMINISTRATIVE PROCEDURAL GUIDES

For the benefit of residents, landowners, developers, and other interested parties, Administrative Procedural Guides may be developed outlining the various requirements and procedures established within this Ordinance. In the event of any discrepancy between this Ordinance and any Procedural Guide, the Ordinance text shall be the controlling document. The Procedural Guides are intended to be an aid to understanding the requirements and are not intended to be supplements or additions to this Ordinance.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

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ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

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ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.01: PURPOSE

The purpose of this Section is to guide and outline procedures for the subdivision of land into plats pursuant to Public Act 288, 1967 as amended, and to regulate the development of land within condominiums under the provisions of Public Act 59, 1978 as amended, with the objective of achieving the same characteristics and land use results as if the development and improvements were being proposed in accordance with general subdivisions, including all procedures and requirements as set forth in the Charter Township of Marquette Zoning Ordinance. The following Table II, is a Procedural Guide outlining the specific responsibilities and approval procedure for the submission and municipal review of a proposed Subdivision Plat or Condominium Development Plan.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.02: SUBDIVISION PLAT/CONDOMINIUM DEVELOPMENT APPROVAL PROCEDURE

TABLE II

SUBMISSION	MUNICIPAL REVIEW BODY/ACTION	
PRE-APPLICATION REVIEW	PLANNING COMMISSION	TOWNSHIP BOARD
Subdivision Plat (Optional)	Municipal representative attends a meeting for informal review of proprietor's concept plan	
Condominium Development	Not applicable	Not applicable
PRE-PRELIMINARY		
Subdivision Plat (Optional)	<i>Review / COMMENT</i>	Not applicable
Condominium Development (Required)	<i>Review / COMMENT</i>	Not applicable
PRELIMINARY		
Subdivision Plat (Required)	<i>Review / RECOMMEND PUBLIC HEARING</i>	Review / CONDITIONED TENTATIVE APPROVAL
Condominium Development (Required)	<i>Review / RECOMMEND</i>	Review / FINAL APPROVAL
FINAL PRELIMINARY		
Subdivision Plat (Required)	Not applicable	Review / FINAL PRELIMINARY APPROVAL
Condominium Development	Not applicable	Not applicable
DEVELOPMENT COMPLETION		
Subdivision Plat	Not applicable	EXECUTES MUNICIPAL CERTIFICATE
Condominium Development	Not applicable	* ISSUES ZONING COMPLIANCE PERMITS

* **Zoning Administrator or Township designee.**

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.03: STATUTORY AUTHORITY: SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN

This section regulates and controls the subdivision of land into plats pursuant to the Land Division Act, Public Act 288 of 1967, as amended, (M.C.L. 560.101, et seq.) and regulates the development of land within the Township under the provisions of the Condominium Act, Public Act 59 of 1978, as amended, (M.C.L. 559.101, et seq.) and the Charter Township Act, Public Act 359 of 1947, as amended, (M.C.L. 42.1, et seq.), being the Township Municipal Charter Ordinance statute.

SECTION 2.04: INTENT

- A. It is the intent of the Charter Township of Marquette to assure that both, Subdivision Plats and Condominium Developments meet the minimum standards as outlined in this Article, and that the minimum lot size and/or building sites adhere to the zoning district in which the project is located. Nothing in this Section shall be construed to require a Condominium Development to obtain plat approval.

- B. The regulations are specifically designed to:
 - 1. Provide for orderly growth and harmonious development of the community, consistent with the Charter Township of Marquette Comprehensive Plan along with all other local plans and policies;
 - 2. Assure adequate provisions for potable water supply, sewage disposal, drainage, and other health related requirements, with municipal water and sanitary sewer being the preferred method of providing for potable water supply and sewage disposal;
 - 3. Provide for adequate recreational areas, open space, educational facilities, lighting, pedestrian access, and other amenities;
 - 4. Secure adequate traffic circulation and safety through adequately designed and coordinated street systems with proper connections to existing roads, streets and driveways, major thoroughfares, adjoining subdivisions, and public facilities.
 - 5. All plats shall comply with the requirements of the Michigan Land Division Act (1967 PA 288, as amended), and with the requirements of this Section. All condominium developments shall comply with the requirements of the Michigan Condominium Act (1978 PA 59, as amended), and with the requirements of this Section.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.04: GENERAL PROVISIONS (Cont'd)

- C. Fees for Township review of proposed developments shall be established from time to time by the Township Board, with differing fees dependent upon the following situations:
1. Pre-preliminary review of platted/ condominium subdivision;
 2. Preliminary review of platted/ condominium subdivision with private/ public utilities or combination thereof;
 3. Final preliminary review of platted subdivision with private/ public utilities or combination thereof;
 4. Development completion of platted/condominium subdivision with private/ public utilities or combination thereof.
 5. Additional cost incurred by Township personnel, Commissions or Boards in reviewing the proposed plat/ condominium subdivision will be charged to the proprietor as specified in Article V, Section 5.08, Fees.

SECTION 2.05: DEFINITIONS

For purposes of this Section certain terms and words used herein shall have the following meaning:

“As-built Plans” are the as-constructed record plans showing all approved field changes which vary from the original approved plan documents.

“Building Site” within a condominium development shall mean that portion of a lot or parcel, which is a two dimensional condominium unit of land (i.e., envelope, foot print), along with any designated space above and/or below the land, designed for the construction of a principal building in addition to any accessory buildings. All building sites shall have access to a public or private street or road.

“Common Elements” means the portions of a condominium project other than the condominium units.

“Comprehensive Plan” The Charter Township of Marquette Comprehensive Plan, which is a comprehensive long-range plan intended to guide the growth and development of the community.

“Condominium” A single real property parcel with all the unit owners having a right in common to use the common elements with separate ownership confined to the individual units which are serially designated, or a system of separate ownership of individual units in multiple-unit building.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.05: DEFINITIONS (Cont'd)

“Condominium Development” A project consisting of not less than two condominium units established in conformance with, and pursuant to, the Condominium Act, (Act No. 59 of the Public Acts of 1978, as amended).

“Condominium Plan” The plan as required by this section, including but not limited to, the boundary survey, utility plan, building site, and the location of existing and proposed structures and improvements.

“Condominium Unit” That portion of a condominium project designed and intended for separate ownership and use, as described in the Master Deed of the project, regardless of whether it is intended for residential, office, industrial, business, recreational or any other type of use approved by the Michigan Department of Commerce for such projects.

“Consolidating Master Deed” The final amended Master Deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space in which the final amended Master Deed fully describes the condominium project as completed.

“Contractible Condominium” A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the express provisions in the condominium documents and in accordance with this Section and the Condominium Act.

“Convertible Area” A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created in accordance with this Section and the Condominium Act.

“Cul-de-sac” A turnaround at the end of a dead-end street, typically circular, and designed and constructed in accordance with the specifications and requirements of the Marquette County Road Commission.

“Expandable Condominium” A condominium project to which additional land may be added pursuant to the express provisions in the condominium documents and in accordance with this Section and the Condominium Act.

“Limited Common Elements” That portion(s) of the common elements reserved in the Master Deed of a condominium project for the exclusive use of less than all the owners of condominium units in the project.

“Lot” A single unit or division of land contained in a platted subdivision, whether it be numbered, lettered or otherwise designated, which has frontage on a public or private street or road.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.05: DEFINITIONS, (Cont'd)

“Master Deed” The legal document prepared and recorded pursuant to Act No. 59 of the Public Acts of 1978, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

“Open Space Subdivision” A platted or a site condominium subdivision developed in accordance with the provisions of this Ordinance, in which lots/units smaller than the minimum requirements of the Charter Township of Marquette Zoning Ordinance are allowed in exchange for the preservation of a minimum amount of dedicated open space.

“Outlot” A lot included within the boundary of a recorded plat, that is set aside for purposes other than a development site, park, or other land which is dedicated for public use or reserved for private use.

“Pre-Application Review Meeting” A meeting held at the option of a proprietor upon submitting a written request to the Marquette County Plat Board. The purpose of the meeting is to conduct an informal review with all approving/review entities of the proprietor’s concept plan for the preliminary plat. A Charter Township of Marquette Municipal Representative shall attend the meeting and provide all attendees with a memo addressing all topics discussed.

“Reserve Strip” A strip of land, typically at the boundary of a subdivision, retained by a proprietor in order to control future access.

SECTION 2.06: SUBMISSION OF PRE-PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN

- A. All Subdivision Plats shall comply with the requirements of the Michigan Land Division Act (PA 288, 1967 as amended), and with the requirements of this Ordinance and all Condominium Developments shall comply with the provisions of the Michigan Condominium Act (PA 59, 1978 as amended), and with the provisions of this Ordinance and submitted to the Township Zoning Administrator or Designee in accordance with the following requirements:
1. Ten (10) copies of a Pre-Preliminary Subdivision Plat or Pre-Preliminary Condominium Development Plan shall be submitted to the Zoning Administrator, or designee, at least ten (10) business days before the next regular meeting of the Planning Commission for their initial review and comment along with a completed Application Form approved by the Township and the required fee.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.06: SUBMISSION OF PRE-PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

NOTE: Incomplete plans will not be reviewed and shall be returned to the applicant with deficiencies noted. The Pre-Preliminary Plans shall be prepared by a Professional Engineer, Professional Land Surveyor or other person licensed by the State of Michigan.

2. Topography of the site(s) proposed to be platted or developed as a condominium with a minimum of two (2) foot contour intervals.
 3. Road layout showing inter-connectivity and connection to existing roads/streets.
 4. Lot or building site layout, showing size and shape, as well as any dedicated common open space.
 5. Indicate whether the proposed Subdivision Plat or Condominium Development Plan will be served by a public or private sanitary sewer and/or potable water supply system.
 6. Indicate the location and size of any flood plain located within the proposed Subdivision Plat or Condominium Development Plan.
 7. Address the detention / retention methods for control of storm water run-off along with all necessary calculations to determine necessary location, areas and depths.
 8. Show existing conditions and characteristics of the land along with existing Zoning District on and adjacent to the site along with any general area set aside for parks, open space, and other community facilities.
 9. If future plans anticipate the platting of adjoining land or future condominium development, the proprietor shall submit along with the Pre-Preliminary Subdivision Plat or Condominium Development Plan, a General Development Plan showing the proposed development of adjoining land.
 10. The required fee as established by resolution of the Charter Township of Marquette Board.
- B. Upon receipt of the Pre-Preliminary Subdivision Plat or a Condominium Development Plan, the Zoning Administrator, or designee, upon review and approval of all of the required information, shall forward copies to the Planning Commission for their initial review and comment on the Plan(s) for compliance with the applicable standards as set forth in Section 206. The Planning Commission shall respond with their comment(s) within 30 days of the initial review of the complete plan.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.06: SUBMISSION OF PRE-PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

C. The Planning Commission shall determine whether the Pre-Preliminary Subdivision Plat or the Condominium Development Plan complies with the Charter Township of Marquette Zoning Ordinance, all applicable Township Ordinances and the State Statutes to determine if the proposed plan(s) fulfill the following requirements:

1. **STREETS AND ROADS:**

- a. Compliance with the **Charter Township of Marquette Road Facilities Plan** adopted by the Township.
- b. Street and road layout shall provide for a continuation of existing streets to and from adjoining areas into the proposed Subdivision Plat or Condominium Development.
- c. Where adjoining areas are not developed, the layout of streets in the proposed Subdivision Plat or Condominium Development shall be extended to the boundary line of the tract to make provision for the inter-connectivity of streets into the adjoining areas. Minor streets within the proposed development shall be designed to discourage use by through traffic.
- d. Where the proposed Subdivision Plat or Condominium Development abuts or contains a County Primary Road or Major Thoroughfare as defined in the **Township Road Facilities Plan as noted in Item C**, the Planning Commission may recommend service streets located parallel with the Right-of-Way of the Primary Road or Major Thoroughfare and may require the applicant to address specific items deemed necessary for the protection of surrounding, residential properties and to afford separation for through and local traffic.
- e. Private streets may be recommended by the Planning Commission, upon concurrence with the Township Board, if it finds that private streets within the proposed Subdivision Plat or Condominium Development will not adversely affect the public health, safety or welfare. Prior to the recommending approval for any private roads, the Planning Commission shall consider the following items.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.06: SUBMISSION OF PRE-PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

- (i) The number of dwelling units, building sites or lots to be served by proposed private streets;
 - (ii) The layout and inter-connectivity of private roads/streets within the proposed development;
 - (iii) Emergency vehicles, access and maneuverability;
 - (iv) Are the private streets designed to serve as inter-connectivity links between different public roads;
 - (v) The proposed private road(s) gradient and site drainage characteristics.
- f. A proposed Subdivision Plat or Condominium Development, or future development which creates a total of fifty (50) or more units shall be developed providing two (2) or more access streets.
- g. All proposed streets shall be named in accordance with Township policy to avoid duplication of existing Township street names.
- h. Proposed streets shall intersect at 90 degrees or as close thereto as possible, and shall not be less than 70 degrees.
- i. Where the proposed continuation of a street at an intersection is not in alignment with the existing street. A minimum of one hundred seventy-five (175) feet shall be required between the existing street centerline and the centerline of the proposed street.
- j. The maximum depth allowed for residential lots, in conjunction with depth to width ratio requirements, shall be 4:1 in accordance with the Charter Township of Marquette Zoning Ordinance, Article XVIII - Performance Requirements, Schedule of Regulations, and Minimum Standards, Sections 18.13 thru 18.19 inclusive, for the zoning district in which they are located.
- k. All Primary Road Rights-of-Way, as designated by the Charter Township of Marquette Road Facilities Plan, within or abutting a Subdivision Plat or Condominium Development shall be not less than 66 feet in width.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.06: SUBMISSION OF PRE-PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

2. LOTS AND BUILDING SITES:

- a. Lots and building sites shall be established in compliance with the minimum lot dimension provisions set forth in the Charter Township of Marquette Zoning Ordinance with the exception of Open Space Subdivision Plats or Condominium Developments.

3. GENERAL PROVISIONS:

- a. Privately held reserve strips controlling access to streets shall be prohibited.
- b. Existing natural features which add value to residential development and that enhance the attractiveness of the community such as streams, water courses, historic spots and similar irreplaceable assets should be preserved insofar as possible in the design of the plat or condominium development. When an area proposed for development of a subdivision contains wetlands, shoreline of Lake Superior or inland lakes or rivers, steep slopes, rock outcrops, areas subject to flooding, unique wildlife habitat and/or other natural features which may be adversely impacted by development, the creation of lots and location of roads, utility corridors, etc. shall be designed in such a way as to avoid or minimize the impact on these natural features.
- c. Lands subject to flooding or otherwise determined by the Planning Commission to be uninhabitable should not be platted/ condominiumized for residential, commercial or industrial purposes unless, they are set aside within the plat or condominium development for other purposes such as parks and/or open space.
- d. Lot size and road orientation in areas where steep slopes are present shall provide for adequate building sites that will avoid development on steep slopes. Information on engineering properties of the soil types present on the site shall be used to determine whether the proposed development is consistent with the capabilities and physical constraints of the site.
- e. Subdivision design shall not change the character of shorelines of inland lakes or streams, or the Great Lakes.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.06: SUBMISSION OF PRE-PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

Lots shall be arranged so as to prevent development in areas of critical dunes, environmentally sensitive areas, or other areas designated by the State of Michigan as requiring protection. Development which retains natural vegetation along shorelines is encouraged, as is development of codes, covenants and restrictions which limit placement of docks or other structures on or near shorelines. Buffers shall be required on shorelines in accordance with the Charter Township of Marquette Zoning Ordinance, the Michigan Department of Environmental Quality, and U.S. Army Corps of Engineers requirements.

- f. Bufferyards or greenbelts, a minimum of 30 feet wide, may be required at the boundary of a proposed subdivision to screen incompatible uses or potentially undesirable features such as highways, railroads, commercial or industrial uses from the view of adjacent residential properties. Street rights-of-way and utility easements may not be used to meet the requirement for bufferyards or greenbelts. Bufferyards or greenbelts may be used to provide open space if an open space subdivision is proposed. Natural features such as ridges, rock outcrops, etc., which serve as natural barriers may provide natural screening which may be used to replace a bufferyard or greenbelt. Bufferyards or greenbelts should contain trees, shrubs or structures which block the view of adjacent uses, and such trees, shrubs or structures shall be maintained within the bufferyard in perpetuity.

4. OPEN SPACE SUBDIVISION PLATS AND CONDOMINIUM DEVELOPMENTS:

- a. As an alternative to subdivision design, which relies solely on the minimum dimensional requirements of the Charter Township of Marquette Zoning Ordinance to determine lot size and arrangement, subdivision plats and condominium developments which provide for the preservation of open space may be developed. An open space subdivision plat or condominium development is one in which a significant portion of the site is maintained as permanent open space, in exchange for an arrangement of lots which may be considerably smaller and more closely spaced than would otherwise be allowed under the Zoning Ordinance. Such smaller lots, when suitably arranged, can result in a feeling of spaciousness comparable to that obtained in a subdivision containing larger lots, while protecting natural features and maintaining open space. Such development can also result in lower costs for development of roads and provision of utilities because of the denser arrangement of lots.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.06: SUBMISSION OF PRE-PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

- b. To qualify for a lot size bonus, the proposed development must comply with all requirements of Section 19.27, Open Space Preservation of the Charter Township of Marquette Zoning Ordinance. In no case shall the number of lots to be developed in an open space subdivision plat or condominium development exceed the number of lots which could be developed on the same site without a lot size bonus.

The number of lots which could be developed without a lot size bonus shall be determined using a yield plan or yield formula, as defined below. The proprietor shall select the method of determining project density.

- (i) Yield Plan: A yield plan shall depict a conventional lot and road layout in compliance with the dimensional requirements as outlined in the Schedule of Regulations of the Charter Township of Marquette Zoning Ordinance, including demonstrated soil suitability for septic systems in accordance with the requirements of the Marquette County Health Department, if required. Lots shall not include land within permanent easements, such as utility easements; land in street or road rights-of-way; or land required to be set aside by some other reviewing agency, such as the Marquette County Drain Commission. The number of lots shown on the yield plan shall be the maximum number of lots allowed in a conventional subdivision plat or condominium development on that same parcel.
- (ii) Yield Formula: Net parcel area shall be determined by subtracting from the total site size any area required for rights-of-way, any area included in permanent easements which restrict construction, such as utility easements, etc.; and any areas protected from development or required by another reviewing agency, such as the Marquette County Drain Commission or Michigan Department of Environmental Quality. The net parcel area shall then be divided by the minimum lot area required by the Charter Township of Marquette Zoning Ordinance for that particular district to achieve the maximum number of lots which could be developed without a lot size bonus. This number shall be the maximum number of lots allowed in a conventional subdivision plat or condominium development on that same parcel.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.06: SUBMISSION OF PRE-PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

- c. Open space preserved in accordance with this Section shall be permanently protected with a deed restriction, plat dedication, restrictive covenant, conservation easement, or other legal means that run with the land, regardless of ownership. Conservation easements, if not held by the Charter Township of Marquette, shall provide the Township with the right to enforce the easement. Open space may be deeded to the Township and held in public ownership, be owned by all property owners in common, or ownership may be retained by the developer. In all cases, property owners in the subdivision shall have equal rights of access to any property preserved as open space.

- d. There are several different types of open space which can be used to meet the requirements of this Section. Some types of open space have been discussed in earlier Sections, including wetlands, areas subject to flooding, and bufferyards or greenbelts. The following types of open space are also encouraged:
 - (i) Public Road Buffers: These buffers are strips of open space along public roads, and are most effective in preserving the rural character of the area if left in naturally-occurring vegetation, or if natural vegetation is left to re-establish on its own. Planting of naturally-occurring plants and trees is also encouraged. Public road buffers are particularly desirable along state trunklines and County primary roads.

 - (ii) Shorelines, Woodlands and Steep Slopes: Protection of these areas as open space achieves several objectives. Access of property owners to areas which are often highly scenic is preserved, while at the same time these areas are protected from development which may compromise aesthetic values. Maintaining steep slopes as open space can help to prevent erosion, while protecting shorelines maintains rural character, provides wildlife habitat, and helps protect lakes, rivers and streams from runoff which may contain sediments and other pollutants.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.06: SUBMISSION OF PRE-PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

- e. The arrangement of lots, including size, width, and density, proposed under an Open Space Development shall be included on the Pre-Preliminary Subdivision Plat or Condominium Development Plan submitted, and shall be reviewed by the Charter Township of Marquette Planning Commission. The Planning Commission may suggest changes in the arrangement of lots.

5. PLANNING COMMISSION COMMENTS:

- a. The Planning Commission shall review and note comments on the copy of the Pre-Preliminary Subdivision Plat/Condominium Development Plan, and note any comments or suggestions on the copy, to be returned to the proprietor. Concurrently, a copy of the comments shall be provided to the Township Board. Comments and suggestions, should not be construed as an indication of approval of a Preliminary Subdivision Plat or Condominium Development Plan.

SECTION 2.07: SUBMISSION OF PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN

- A. All Subdivision Plats shall comply with the provisions of the Michigan Land Division Act (PA 288, 1967 as amended), and with the provisions of this Ordinance. All Condominium Developments shall comply with the provisions of the Michigan Condominium Act (PA 59, 1978 as amended), and with the provisions of this Ordinance. The Preliminary Plat shall be prepared by a Professional Engineer, Professional Land Surveyor or other person authorized by law within the State of Michigan.

Every person, firm or corporation shall submit not less than ten (10) copies of a proposed Preliminary Plat or Condominium Development Plan to the Zoning Administrator, or designee, for Planning Commission initial review, at least fifteen (15) business days before their next regular meeting, for recommendation and subsequently not less than ten (10) copies of a proposed Preliminary Plat or Condominium Development Plan to the Township Board for approval along with a **Completed Application** made on a form approved by the Township Board containing the following relevant information and fees:

1. Evidence that the Planning Commission's comments and suggestions have been incorporated into the proposed plan from the Pre-Preliminary submission, if applicable. If the development is a platted subdivision and the Pre-Preliminary Plat was not submitted, the Preliminary Plat shall comply with the informational requirements of Section 2.06 (A) (1-10) and Section 2.06 (C) (1-4) of this Ordinance as appropriate.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.07: SUBMISSION OF PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

2. Detailed working drawings showing grades, drainage structures, proposed utilities and road construction plans for public and/or private roads within and adjoining the plat or condominium project.
3. In the event individual sewage disposal systems are proposed and public sewage facilities are not reasonably available, a certification from the Marquette County Environmental Health Department as to the suitability of the land included in the development for the use of septic tank, dry wells and tile fields shall be required.
4. A "Traffic Assessment" shall be required for developments that would generate between fifty (50) and ninety-nine (99) directional trips during a peak hour of traffic, and a "Traffic Impact Study" shall be required for new developments that would generate over one hundred (100) directional trips during a peak hour or over seven hundred fifty (750) trips on an average day. The threshold conversions shall be based on the current Trip Generation Manual, which is published by the Institute of Transportation Engineers(ITE), and updated as needed.

The requirement for a Traffic Assessment or Traffic Impact Study may be waived by the Planning Commission or Township Board in the following instances:

- a. The existing level of service is not expected to be significantly affected by the proposed development due to the nature of the request or specific conditions at the subject site.
 - b. A similar traffic study was previously prepared for the subject site and is still considered applicable.
5. Ten (10) preliminary copies of any documents to be recorded affecting future ownership in the Subdivision Plat/Condominium Development including but not limited to proposed Restrictive Deed Covenants, Bylaws, Master Deed, etc. For proposed condominium subdivisions, the Master Deed shall be reviewed with respect to all matters subject to regulation by the Township, including but not limited to: the description, boundaries, use and preservation of common elements; the maintenance of drainage, retention ponds, wetlands and other natural areas; and the maintenance of landscaping in common areas of the project. For a condominium subdivision, the Master Deed shall provide the means by which any private road right-of-way may be dedicated to the public entity having jurisdiction in the future should the Condominium Association deem such later dedication appropriate.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.07: SUBMISSION OF PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

6. A fee established by resolution of the Charter Township of Marquette Board.
- B. Upon receipt of all required copies of the Preliminary Subdivision Plat or Condominium Development Plan for approval, the Planning Commission/ Township Board, respectively, shall examine the documents with such assistance and review by the Township Engineer and Township Attorney as required. If the development is a subdivision plat, the Planning Commission shall conduct a public hearing with a public notice published in a local newspaper at least fifteen (15) days before the hearing and a mailing sent to the proprietor/applicant and owners of land immediately adjoining the proposed plat (M.C.L. 125.3871, Section 71(5)). Upon completing its review, the Planning Commission shall recommend, and the Township Board shall determine whether the Preliminary Plat or Condominium Development Plan incorporates the comments and suggestions, if applicable, and also meets the following requirements:
1. All proposed roads, streets or highways, whether public or private, shall be constructed according to the Marquette County Road Commission's "Procedures for Plat Development and Standards and Specifications", as amended.
 2. All Rights-of-Ways shall be cleared, grubbed and graded for proper drainage. All trees or other obstructions within the right-of-way which interfere with the grading and/or drainage shall be removed. The foregoing tree and obstruction removal may be varied or adjusted by the Township Board upon recommendation of the Township Engineer where valuable trees or obstacles are involved and as long as drainage and safety will not be impaired.
 3. All surface waters shall be adequately drained within each plat/condominium development by a separate system of drainage structures or through the connection of such separate system to an adequate adjoining system. A storm drainage system, including but not limited to storm sewers, catch basins, manholes, culverts, detention and/or retention ponds, etc., shall be constructed in accordance with the requirements of the Marquette County Drain Commissioner and the Marquette County Road Commission.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.07: SUBMISSION OF PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

4. *A plat/condominium subdivision shall be served by extension of an existing water and/or sanitary sewer system if such a system is located within 1,320 feet of the proposed subdivision and is capable of providing service.* The distance shall be measured from the nearest existing main to the nearest boundary of the proposed plat/condominium subdivision. Where a subdivision is to be served by a public water supply and/or sanitary sewer system, water and/or sewer mains, hydrants, manholes and other appurtenances shall be installed by the proprietor in accordance with the requirements of the Michigan Department of Environmental Quality. A new water supply and/or sanitary sewer system shall be constructed in accordance with the requirements of the Michigan Department of Environmental Quality if an existing system with sufficient capacity is not available. Such new system(s) shall be conveyed to the Charter Township of Marquette for operation and maintenance upon completion.

All wells and septic systems, whether installed by the proprietor or individual property owners, shall be constructed in accordance with the requirements of the Marquette County Health Department. Individual wells and on-site septic systems are typically not constructed until individual lots are developed. Preliminary plats/condominiums which indicate that some or all of the proposed subdivision will be served by municipal water and/or sewer shall be reviewed by the Charter Township of Marquette Department of Public Works. This review shall be completed within Twenty (20) business days after receipt of the fee for review of the proposed plat/condominium development. The Public Works Department shall submit a written report to the Planning Commission, setting forth its recommendations for approval, rejection, or proposed requirements for approval.

5. The proprietor shall make arrangements for all distribution lines of telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely throughout the residential area. Electric distribution lines shall be defined and constructed in accordance with the rules, regulations and standards promulgated by the Michigan Public Service Commission. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public right-of-ways. All such facilities placed in dedicated public right-of-ways shall be planned so as not to conflict with other underground utilities. Private easements for underground utilities shall be shown on the preliminary plan.
6. A future site grading/ drainage plan for the development must be adequate to insure each lot/building site and roadway will not be flooded and that all necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.07: SUBMISSION OF PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

7. No land within the development may be isolated from a public highway, nor may any adjoining land of the proprietor or others be isolated from a public thoroughfare thereby creating land-locked parcels.
 8. Public street lighting shall be installed and designed in accordance with the **Charter Township of Marquette Street Lighting Policy**.
 9. Pedestrian access, utilizing sidewalks or bikepaths, are desirable located across the full width of all lots. Pedestrian access is recommended on county local and primary roads and required on county primary roads with existing or projected average daily traffic of three thousand (3000) vehicles or posted speed limits exceeding 35 miles per hour. Sidewalks shall be of concrete a minimum of five (5) feet wide and four (4) inches thick, six (6) inches at known driveway crossings constructed upon a two (2) inch thick sand base. Bikepaths may be concrete, four (4) inches thick or asphalt two (2) inches thick, a minimum of eight (8) feet wide and with a similar base.
- C. Within thirty (30) business days, or after the public hearing, whichever occurs first, of their examination of the Preliminary Plat or Condominium Development Plan for compliance with the requirements of Section 2.07 (B) above, the Planning Commission shall submit their recommendations to the Township Board.

NOTE: Prior to submitting copies of the *Condominium Development Plan* to the Township Board for final approval, the developer shall document plan approval, as required, by the Marquette County Road Commission, Marquette County Drain Commissioner, Charter Township of Marquette Department of Public Works, Marquette County Health Department, Michigan Department of Transportation, Michigan Department of Environmental Quality and all public and private utilities which will be servicing the development to resolve any conflicts in location of improvements, surface water drainage, natural features, public health issues and existing public utilities.

Certified detailed construction drawings showing grades, drainage structures, proposed public/private utilities and road construction plans for public and/or private roads within and adjoining said project shall also be submitted for all proposed improvements. Additionally, copies of all applicable condominium documentation in their final recordable form shall be provided to the Township Board.

If the development is a condominium subdivision or site condominium, the Township Board shall provide final approval and note its approval on the copy of the preliminary condominium plan, or approve it subject to conditions and note its approval and conditions on the copy of the preliminary condominium plan, to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for approval, within forty-five (45) business days of receipt of the Planning Commissions recommendations.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.07: SUBMISSION OF PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

Final approval under this section confers upon the proprietor for a period of one year from the date thereof, approval for development purposes, of lot sizes, lot orientation, and street layout and application of the then-current subdivision regulations. Final approval of a condominium plan shall confer upon the proprietor the right to proceed with recordation of the Master Deed which must occur within this period. The final approval may receive a one-time extension if applied for by the proprietor and granted by the Township Board in writing.

If the certified detailed construction plans are found to be adequate, an agreement between the proprietor and the Township shall be made to provide for periodic and final inspection of facilities under the jurisdiction of the Township to insure conformity to the submitted plans. This agreement shall be a condition of approval of any detailed engineering plans. Following Township Board approval of the certified detailed construction plans, the proprietor may begin construction of such facilities as shown on the approved engineering plans.

The proprietor of a condominium subdivision shall be required to install the public improvements in accordance with the conditions and specifications set forth in this Section. *Final inspection and acceptance of the public improvements as being in compliance with the approved detailed engineering plans shall take place prior to Development Completion.* Once construction of the public improvements is complete, the proprietor shall furnish one (1) complete copy of as-built or Record engineering plans for all required public improvements to the Township. The as-built or Record plans shall be submitted at the time of Development Completion.

Any subsequent changes to a final approved condominium plan shall be reviewed by the Planning Commission and approved by the Township Board as provided for by the original preliminary review procedures as specified in Section 2.07 of this Ordinance. Final approval of a condominium plan shall not constitute approval of contractible, convertible area or expandable portions of a condominium development unless the contractible, expandable or convertible area portions were specifically reviewed and approved in accordance with the procedures of Section 2.07 of this Ordinance.

If the development is a platted subdivision, the Township Board shall tentatively approve and note its approval on the copy of the preliminary plat, or tentatively approve it subject to conditions and note its approval and conditions on the copy of the preliminary plat, to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval, within the following time period, as applicable:

1. Within sixty (60) days after it was submitted to the Township, if the development is a Subdivision Plat and a pre-application review meeting was held pursuant to Section 111(3) of the Michigan Land Division Act (1967 PA 288, as amended).

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.07: SUBMISSION OF PRELIMINARY SUBDIVISION PLAT OR CONDOMINIUM DEVELOPMENT PLAN, (Cont'd)

2. Otherwise, within ninety (90) days after it was submitted to the Township.

Tentative approval under this section confers upon the proprietor for a period of one (1) year from the date thereof approval for development purposes of lot sizes, lot orientation, and street layout and application of the then-current Subdivision plat regulations. The tentative approval may be extended if applied for by the proprietor and granted by the Township Board in writing.

SECTION 2.08: SUBMISSION OF FINAL PRELIMINARY SUBDIVISION PLAT

- A. Every person, firm or corporation shall hereafter submit ten (10) copies of the Tentative Approved Preliminary Plat to the Township Board, at least ten (10) business days before the next regular meeting, for Final Preliminary Approval along with a completed Application on a form approved by the Township Board, including the following information and payment of the required fee established by resolution of the Township Board.
 1. Evidence that all conditions and requirements imposed by the Township Board at the time of granting Tentative Preliminary Approval have been incorporated into the proposed plan.
 2. Certified detailed construction drawings showing grades, drainage structures, proposed public/private utilities and road construction plans for public and/or private roads within and adjoining said plat. Prior to submitting copies of the tentative preliminary plat plan to the Township Board for final preliminary approval, the developer shall document consultation with all public utilities which will be servicing the development to resolve any conflicts in location between public utility facilities and other improvements.
 3. Certifications of statutorily required governmental agency approvals, including, if individual sewage disposal systems are proposed and public sewage facilities are not reasonably available, certification from the Marquette County Environmental Health Department as to the suitability of the land included in the development for the use of septic tank, dry wells and tile fields.
 4. Copies of proposed deed restrictions, restrictive covenants, etc. and any other documents to be recorded with the plat.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.08: SUBMISSION OF FINAL PRELIMINARY SUBDIVISION PLAT (Cont'd)

- B. Upon receipt of all required copies of the Tentative Preliminary Plat for Final Preliminary Subdivision Plat approval, the Township Board shall examine the same with such assistance and review as required. Upon completing its review, the Township Board shall determine whether the plat complies with the requirements imposed at the time of Tentative Approval and has obtained the required statutory approval of other governmental agencies.

If the Township Board determines that the Preliminary Plat has obtained the required statutory approval of other governmental agencies and complies with the requirements set forth above in this Ordinance, the Township Board shall, at its next meeting following plan submission, or within twenty (20) days from the date of submission, grant Final Approval of the Preliminary Plat which shall confer upon the proprietor for a period of two (2) years from the date of approval the conditional right that the general terms and conditions under which said approval was granted will not be changed. Said two (2) year period may be extended by a one (1) time extension for one (1) year at the discretion of the Township Board upon application by the proprietor.

If the certified detailed construction plans are found to be adequate, an agreement between the proprietor and the Township shall be made to provide for periodic and final inspection of facilities under the jurisdiction of the Township to insure conformity to the submitted plans. This agreement shall be a condition of approval of any detailed engineering plans. Following Township Board approval of the certified detailed construction plans, the proprietor may begin construction of such facilities as shown on the approved engineering plans.

The proprietor of a platted subdivision shall be required to install the public improvements in accordance with the conditions and specifications set forth in this Section. Final inspection and acceptance of the public improvements as being in compliance with the approved detailed engineering plans shall take place prior to Development Completion. Once construction of the public improvements is complete, the proprietor shall furnish one (1) complete copy or record of as-built engineering plans for all required public improvements. The as-built or record plans shall be submitted at the time of Development Completion.

SECTION 2.09: DEVELOPMENT COMPLETION-FINAL SUBDIVISION PLAT

- A. Every person, firm or corporation which is processing a Final Plat or has recorded a Condominium Master Deed shall submit to the Township Board for Final Approval, along with a completed Application on a form approved by the Township Board, including the following information and payment of the required fee established by resolution of the Township Board.
1. A letter executed by the proprietor of the development with a notarized acknowledgment stating:
 - a. All statutorily required monuments have been placed in the ground.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.09: DEVELOPMENT COMPLETION-FINAL SUBDIVISION PLAT, (Cont'd)

- b. All required roads, streets, street signs and culverts have been completed and installed.
 - c. Any flood plains involved in the proposed plat or condominium project have been restricted as provided by the Land Division Act or the Condominium Act, and recorded in the Office of the Register of Deeds as part of the Plat or Master Deed or contemporaneously with the recording of the Master Deed.
 - d. All utilities servicing the development have been installed and water and/ or sanitary sewer mains have been stubbed to the lot line or building site line and their locations noted in the As-Built/Record Plans(s).
 - e. All underground utility installations, including lines for street lighting systems, which traverse privately owned property shall be protected by easements. These easements shall be recorded as part of the Plat or Master Deed as private easements for public utilities or easements provided by separate instrument.
 - f. All public improvements, such as street lights, fire hydrants, sidewalks, bikepaths, parks, etc., which have been required by the Township Board, have been completed and installed.
 - g. All greenbelts, bufferyards or other improvements shown on the approved preliminary plat or condominium shall be in place. Additionally, adequate provision for open space, parks or recreational areas, public access to water, or other public or common space noted on the plat/ condominium subdivision has been conveyed to a public entity by land dedication, deed restrictions, conservation easements, etc.
 - h. In the event any or all of Item(s) a. through Item g. above have not been completed installed or accomplished, a performance/ surety bond, cash deposit, certified check, negotiable bond or irrevocable bank letter of credit accruing to the Township in an amount equal to the estimated cost of construction completion, including contingencies, will be provided by the proprietor for a period to be specified by the Township Board. The proprietor and Township shall enter into a progressive payment agreement reducing the surety to the extent of the cost of the completed part of the construction.
- B. The Township Board shall, at its next regular meeting or within Twenty (20) Business days from the date of submission, review the above information, and upon determining that it is satisfactory, grant final approval as follows:

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.09: DEVELOPMENT COMPLETION-FINAL SUBDIVISION PLAT (Cont'd)

If the development is a platted subdivision, the Township Clerk will be authorized by a majority of the Township Board to execute the Certificate of Municipal Approval on the final plat.

If the development is a condominium subdivision, the Township Board will authorize the Zoning Administrator, or designee, to process Zoning Compliance Permits for proposed construction which complies with zoning requirements.

The proprietor shall furnish the plat or condominium maps in an as-recorded digital format compatible with hardware and software utilized by the Township for inclusion into their database. The proprietor shall also furnish a complete copy of as-built and/or record of engineering plans for all required public improvements and copies of any documents recorded affecting ownership rights for the plat/condominium.

- C. In the event the proprietor fails to complete all public improvements within the period of time required by the conditions of the guarantee for completion, it shall be the responsibility of the Township Board to have such work completed. In order to accomplish this, the Township Board shall retain qualified contractors to complete the public improvements, and shall reimburse the cost of completion of the improvements by appropriating the necessary funds from the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit. The cost reimbursement shall include any costs associated with advertising for bids, project monitoring and inspection, etc., which would not have been incurred by the Township if the proprietor had completed the public improvements as required by the conditions of the guarantee.

SECTION 2.10: VARIANCE AUTHORITY AND PROCEDURE

- A. The Township Board may grant variances/waivers from the design and approval requirements of this Section when the Township Board determines that *each* of the following standards are satisfied in the circumstances of each specific case:
1. Strict compliance with the Ordinance requirement would result in a practical difficulty or undue hardship because of the particular physical surroundings, shape, or topographical conditions of the tract of property involved, as distinguished from a mere inconvenience or economic hardship.
 2. The variance/waiver may be granted without detriment to the public safety, health, or general welfare, or have an adverse effect on adjacent property.
 3. The variance is the minimum necessary to permit reasonable use of the land and shall do substantial justice to the applicant as well as other property owners in the area .

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.10: VARIANCE AUTHORITY AND PROCEDURE, (Cont'd)

4. The conditions upon which the request for variance is based are unique to the subject property and not applicable generally to property outside of the proposed plat/condominium.
 5. Approval of a variance/waiver will not in any manner result in a violation of the Land Division Act (P.A. 288 of 1967, as amended), the Condominium Act (P.A. 59 of 1978, as amended), the Charter Township of Marquette Zoning Ordinance or Comprehensive Development Plan, or any other plans and policies of the Township.
 6. The conditions providing support for the variance/waiver were not created by the applicant or the applicant's predecessors in title.
- B. A request for a variance/waiver identified by section number and description from any requirement of this Section shall be submitted in writing by the applicant when the preliminary plat/condominium is submitted for initial review. The request shall state the grounds for the requested variance/waiver and all the facts relied upon in support thereof. Supporting documentation may be attached. The Township Board shall hold a public hearing on any variance/waiver application.
- C. Application Fee. **The application fee for consideration of a variance/waiver application shall be \$600.00.** Upon adoption of this Ordinance, the Township Board may change the amount of such application fee prospectively, by motion or resolution.
- D. The Township Board shall consider the variance request at the next regularly scheduled Board meeting and may approve, approve with conditions or deny the request. Conditions or reasons for the denial shall be set forth in writing.

SECTION 2.11: DIVISION OF PLATTED LOTS

This section shall regulate and control the divisions of recorded lots within land subdivided into plats pursuant to Section 263, of the Land Division Act, Public Act 288 of 1967, as amended (MCL 560.263). No lot, out-lot or other parcel of land located in a recorded plat shall be further divided or partitioned into more than four (4) parts and then only in accordance with the requirements of this Section.

Such divisions shall be consistent with state statutes and the Charter Township of Marquette Ordinances, be consistent with the character of the neighborhood in which the property is located and be consistent with the public health, safety, and general welfare.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.12: NO INTENT TO CREATE A SEPARATE BUILDABLE LOT

- A. A boundary adjustment is a property transfer between two (2) or more adjacent parcels that results in no new buildable lots. Applicants are advised that if the parcel is currently mortgaged, this transfer may affect the mortgage description. The resultant parcel(s) shall meet all the dimensional requirements of the Charter Township of Marquette Zoning Ordinance and have direct frontage on a public road. An application for a boundary adjustment signed by the owner(s) thereof and payment of a fee as prescribed by the Township Board shall be submitted to the Zoning Administrator, or designee, along with the following information:
1. A certificate of survey, certified by a Professional Land Surveyor and drawn to scale depicting property lines, structures, the involved parcel(s) and the general situation.
 2. A complete and accurate legal description of the proposed parcel(s) created by the boundary adjustment.
 3. A copy of all the current recorded deed(s) for all affected parcels.

The Zoning Administrator, or designee, shall review the furnished information for completeness and determine compliance with zoning requirements. They may approve the application, approve with conditions or deny the application with the reason(s) for denial furnished in writing to the applicant.

SECTION 2.13: INTENT TO CREATE A NEW BUILDABLE LOT

A lot in a recorded plat may be divided into not more than four (4) parts. All resultant parcels shall have direct frontage on a public road and comply with all dimensional requirements of the Charter Township of Marquette Zoning Ordinance. Prior to making any division(s), an applicant shall file the following information with the Zoning Administrator, or designee:

- A. A completed signed application form;
- B. A copy of the current deed for the parcel proposed to be affected by the division;
- C. A Certificate of Survey prepared by a Professional Land Surveyor drawn to scale, including an accurate legal description of each proposed division, showing boundary lines, existing structures, dimensions, existing and proposed public utilities and accessibility;
- D. A complete and accurate description of each proposed parcel;
- E. If the proposed division will not be served by public sanitary sewer, furnish a copy of a site evaluation for each division for a sewage disposal system approved by the Marquette County Health Department;

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.13: INTENT TO CREATE A NEW BUILDABLE LOT, (Cont'd)

F. Payment of a fee as prescribed by the Township Board.

The Zoning Administrator, or designee, shall review the furnished information for completeness and assess compliance with dimensional requirements of the Zoning Ordinance. Additionally, the resultant parcel(s) shall not be inconsistent or incompatible with the existing lots and uses in the close vicinity, nor shall the divisions result in a change in the character of the immediate area. The Zoning Administrator, or designee, at their discretion, may request the Planning Commission's review and comments prior to approval.

The Zoning Administrator, or designee, shall approve the application, approve with conditions or deny the application with the reason(s) for denial furnished in writing to the applicant.

SECTION 2.14: DIVISION OF CONDOMINIUM UNITS

This section shall regulate and control the subdivision of land within the Township pursuant to the Condominium Act, Public Act 59 of 1978, as amended, (MCL 559.148 and 559.149). No condominium units may be relocated or subdivided unless the condominium documents expressly permit the relocation or subdivision thereof and then only in accordance with Section 48 or Section 49 of the Condominium Act, as applicable. Such relocations or subdivisions shall comply with statutes and Township Ordinances, be consistent with the Master Deed and condominium bylaws, have direct frontage on a public road and be consistent with the public health, safety and general welfare.

SECTION 2.15: RELOCATION OF CONDOMINIUM UNIT BOUNDARIES

A. The resultant units shall meet all requirements of the Charter Township of Marquette Zoning Ordinance and have direct frontage on a public road. An application for a boundary relocation signed by the owner(s) and payment of a fee as prescribed by the Township Board shall be submitted to the Zoning Administrator, or designee, along with the following information:

1. A copy of the recorded condominium Master Deed with that portion of the document highlighted wherein the relocation of boundaries between adjoining condominium units is expressly permitted.
2. Copy of a document indicating approval of affected mortgagee(s).
3. A certificate of survey prepared by a Professional Land Surveyor, drawn to scale illustrating the original units(s), the proposed relocation, existing building(s) & utilities and dimensions.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.15: RELOCATION OF CONDOMINIUM UNIT BOUNDARIES, (Cont'd)

4. Copies of proposed legal descriptions and the recorded deeds for all involved units.
5. A copy of the proposed amendment to the Master Deed identifying the condominium units involved and relocating the boundaries. The amendment shall also contain the conveyancing between the co-owners and any other legal requirements.

The Zoning Administrator, or designee, shall review the furnished information for completeness and assess compliance with zoning requirements. They shall approve the application, approve with conditions or deny the application with the reason(s) for denial furnished in writing to the applicant.

SECTION 2.16: DIVISION OF CONDOMINIUM UNITS

A condominium unit shall not be subdivided unless the recorded Master Deed expressly permits said subdivision. If a subdivision of condominium unit(s) require amendments to the Master Deed assigning new identification numbers to new condominium units, the procedure for division is the same as provided for by the original preliminary review procedures as specified in Section 2.07 of this Ordinance.

SECTION 2.17: DIVISION OF UNPLATTED LAND

This section shall regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to the Land Division Act, Public Act 288 of 1967, as amended, (M.C.L. 560.101, et seq.), and the Charter Township Act, Public Act 359 of 1947, as amended, (M.C.L. 42.1, et seq.).

SECTION 2.18: PURPOSE

The purpose of this Ordinance is to carry out the provisions of the Land Division Act, Public Act 288 of 1967, as amended, MCL 560.101, et seq., formerly known as the Subdivision Control Act, to establish guidelines and procedures for the division of unplatted land in compliance with the requirements set forth in the "Act" as well as the Charter Township of Marquette Zoning Ordinance and other applicable Ordinances, to minimize potential boundary disputes, to assure orderly development of the community, and provide for the health, safety and welfare of the residents and property owners of the Charter Township of Marquette by requiring reasonable standards for review and approval of land divisions within the Township.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.19: DEFINITIONS

For purposes of this section, certain terms and words used herein shall have the following meaning:

“Accessible”, in reference to a parcel, means that the parcel meets one or both of the following requirements:

- A. Has an area where a driveway provides, or can provide, access to an existing Public road and meets all applicable location standards of the Michigan Department of Transportation or the Marquette County Road Commission.
- B. Is served by an existing easement that provides, or can provide, access to an existing Public road and that will meet all applicable location standards of the Michigan Department of Transportation (MDOT) or Marquette County Road Commission (MCRC).

“Applicant” means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

“Development” means any parcel or lot on which exists or which is intended for building development. It does not include agricultural use, involving the production of plants or animals useful to humans, or forestry use, involving the planting, management or harvesting of timber.

“Divide” or “Division” means the partitioning or splitting of a parcel or tract of land by the proprietor, his/her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Land Division Act (M.C.L. 560.108 and 560.109). "Divide" and "Division" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel. Any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act and the requirements of other applicable local Ordinances.

“Exempt split” or “Exempt division” means the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his/her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent. For a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act and the requirements of other applicable local ordinances.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.19: DEFINITIONS, (Cont'd)

“Forty acres or the equivalent” means 40 acres, or a quarter-quarter section containing not less than 30 acres, or a Government Lot containing not less than 30 acres.

“Governing body” - The Charter Township of Marquette Board of Trustees.

“MCRC” - Marquette County Road Commission.

“MDOT” - Michigan Department of Transportation.

SECTION 2.20: APPROVAL REQUIREMENTS FOR LAND DIVISION

All proposed land divisions located in the Charter Township of Marquette, which are intended to create from one (1) to four (4) new parcels, shall not be divided without the review and approval of the Zoning Administrator, or designee. When more than four (4) parcels are proposed, the Township Planning Commission shall review and approve all parcel divisions in accordance with this Section and the Land Division Act. The following conditions shall be exempt from this requirement:

- A. A parcel proposed for subdivision through a recorded plat in accordance with the requirements of the Land Division Act;
- B. A lot in a recorded plat proposed to be divided in accordance with the requirements of the Land Division Act;
- C. An exempt split or exempt division as defined in Section 2.19, or other partitioning or splitting that resulted in parcels of 20 acres or more, if each is not accessible and the parcel was in existence on March 31, 1997.
- D. An exempt split or exempt division which resulted from exempt splitting under the provisions of the Land Division Act.

SECTION 2.21: APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file the following information with the Zoning Administrator, or designee, for review and approval prior to making any division, either by deed, land contract, lease for more than one year, or for building development. The Zoning Administrator, or designee, shall review all proposed divisions to a maximum of four (4), the Planning Commission shall review and approve all proposed land divisions over four (4) and, respectively, make a decision regarding the proposed land division. The following information shall be required for all land divisions within the Charter Township of Marquette.

- A. A completed application form as provided by the Zoning Administrator, or designee;

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.21: APPLICATION FOR LAND DIVISION APPROVAL, (Cont'd)

- B. Copy of the current recorded deed of record as proof of fee ownership of the land proposed to be divided and copies of recorded deeds to document the prior divisions of land which the proposed division was a part of and to verify that the parcel to be divided was lawfully in existence as of March 31, 1997;
- C. A tentative parcel map drawn to scale, including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility for vehicular traffic and public utilities for each division in a recordable format;
- D. Proof, that all requirements of the Land Division Act and this Section have been addressed and verified;
- E. If a transfer of division rights is proposed in the land transfer, detailed information regarding the terms and availability of the proposed division rights transfer;
- F. If a proposed division creates a parcel intended to be declared a “non-development site”, the applicant shall provide a copy of a recordable affidavit or deed restriction clearly identifying the parcel as “not a development site”, as defined under 1967 PA 288, as amended. Upon recordation any parcel so designated shall not thereafter be used as a “development” site;
- G. Payment of a fee as established by resolution of the Governing body for land division processing to cover the costs of review and administration of this Section and the Land Division Act.

SECTION 2.22: PROCEDURE FOR REVIEW OF LAND DIVISION

- A. The Zoning Administrator, or designee, or the Planning Commission, shall approve or disapprove a land division applied for within forty five (45) days after receipt of a complete application conforming to the requirements of this Section and the Land Division Act. The Zoning Administrator, or designee, shall promptly notify the applicant in writing of the decision, and if denied, the reasons for such denial. Incomplete submittals will not be reviewed and shall be returned to the applicant for completion and refile in accordance with this Section.
- B. Approval of a parcel division(s) is not a determination that the resulting parcel(s) comply with other statutes or regulations. Furthermore, parcel division approval is not a determination that adequate facilities are available for public water and/or sewer, nor is it a determination that any parcel which results from a division will satisfy applicable standards for on-site potable water supply and/or sewage disposal systems.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.22: PROCEDURE FOR REVIEW OF LAND DIVISION, (Cont'd)

- C. When the land owner creates parcel(s) from the parent parcel or tract, and transfers the right to make a specific number of further divisions to the future (subsequent) owner of the created parcel, the specific *number* of future land divisions granted under the right to make future divisions shall be noted.

The land division(s) shall not become effective until a complete "Notice to Assessor of Transfer of a Right to Make a Division of Land" form provided by the Township, has been filed with the Township Assessor within forty-five (45) days of the date of delivery of the deed by the owner of the parent parcel or tract.

- D. The Township Assessor shall maintain an official record of all approved land divisions and transfers of land division rights.
- E. The Governing body, its officers and employees, shall not be liable for approving a land division if building permits for construction on the parcel(s) are subsequently denied because of the inability of a parcel to be serviced by a public water supply or sanitary sewer, nor due to the inability of a parcel to receive approval for an on-site potable water supply or sewage disposal system. Any notice of approval shall include a statement to this effect.
- F. Any person or entity aggrieved by the decision of the Zoning Administrator, or designee, or the Planning Commission may, within Thirty (30) days of said decision, appeal the decision to the Charter Township of Marquette Zoning Board of Appeals (ZBA), which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting affording sufficient time for a Twenty (20) day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing. Payment of the fee as established by resolution of the Governing body for appeal processing is required prior to the meeting.

SECTION 2.23 LAND DIVISION STANDARDS

A proposed land division shall be approved if the following criteria are met:

- A. All parcel(s) created by the proposed division(s) shall comply with the minimum width, area and structure setback requirements as specified in the Charter Township of Marquette Zoning Ordinance, Article XVIII - Performance Requirements, Schedule of District Regulations and Minimum Standards, Sections 18.13 thru 18.19 inclusive, for the zoning district in which they are located or which may have received a variance from such requirements from the ZBA.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.23 LAND DIVISION STANDARDS, (Cont'd)

- B. Depth to width ratio requirements shall apply to all created parcels of any size including the remainder of the parent parcel or tract. The ratio of depth to width of any parcel created by division shall not exceed a four to one (4:1) ratio exclusive of access roads, easements, or non-development sites.

The depth of a parcel created by a land division shall be determined by measuring the horizontal distance between the front and rear parcel lines as measured along the midpoint between side parcel lines within the boundaries of each parcel. The width of a parcel shall be as defined as the required horizontal distance between the side parcel lines measured at the two points where the required front setback line intersects the side parcel lines.

- C. Parcels originally created by aliquot part divisions may not contain sufficient area, and topographical and other physical constraints existing on-site, as well as compatibility issues with surrounding lands may also be an issue. Under these circumstances, with a written request and detailed documentation from the applicant identifying the practical difficulties or undue hardship, parcels which exceed the four to one depth to width ratio *may* be considered for approval.
- D. The proposed land division(s) comply with all requirements of this Section and the Land Division Act.
- E. All parcels created by division as development site(s) shall be accessible meeting State, County, or Township standards for driveway location either by an existing or proposed driveway/ easement or an area available therefore, and have sufficient width for public utilities and/or emergency and other vehicles from all created parcels with direct access to a public right-of-way or road.
- F. A division which creates a parcel that does not satisfy one or more of the standards of Subsections A, B, and C of Section 2.23 shall be approved if the owner executes and records an affidavit or deed restriction referencing the description and designating the parcel(s) as “not a development site, as defined under 1967 PA 288, as amended”. A parcel so designated shall not be used as a development site as defined under 1967 PA 288, as amended.

SECTION 2.24: CONSEQUENCES OF NON-COMPLIANCE

Any division of land in violation of any provision of this Section shall not be recognized as a separate parcel on the Township tax roll or assessment roll. The Assessor shall give written notice of the suspected violation to the owner of record requesting compliance with this Section. The Township shall have authority to initiate injunctive action or other relief to prevent any violation or continuance of any violation of this Section.

ARTICLE II - LAND DEVELOPMENT REQUIREMENTS

SECTION 2.24: CONSEQUENCES OF NON-COMPLIANCE, (Cont'd)

Any division of land in violation of this Section shall not be eligible for any Zoning Compliance or Building Permit or for any Construction or Improvement thereto. Any person, firm or corporation who violates any of the provisions of this Section shall be deemed to be responsible for a Municipal Civil Infraction as defined by Article V, Section 5.06, Penalties, and Section 5.07, Remedies.

Pursuant to Section 267 of the Land Division Act (MCL 560.267), an unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefore, together with any damages sustained by the purchaser, recoverable in an action at law.

ARTICLE III - PRIVATE ROAD REQUIREMENTS

CONTENTS OF ARTICLE III PRIVATE ROAD REQUIREMENTS

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ARTICLE III - PRIVATE ROAD REQUIREMENTS

SECTION 3.01: PURPOSE

It is the intent of the Charter Township of Marquette to regulate the development of private roads to promote the health, safety and general welfare of Township residents by setting standards for the construction of all private roads. Unobstructed, safe and continuous vehicle access to adjacent property lots is necessary to ensure that public and emergency service vehicles can safely enter and exit private property at all times. It is further the intent to ensure that private roads are maintained and repaired exclusively by the private property owners who own and use the road. *If a proposed private road is to serve three (3) or more residential lots, a Private Road Permit is required.*

SECTION 3.02: DEFINITIONS

“Common Driveway” - A vehicular access way serving two lots with recorded easement and maintenance agreements between landowners.

“Driveway” - A vehicular access way serving one lot.

“Lot” - A parcel of land, excluding any portion in a street or road right-of-way, of at least sufficient size to meet minimum requirements for use, coverage, lot area, set backs and open space as defined in the current Charter Township of Marquette Zoning Ordinance.

“Private Access Easement” - An easement agreement between property owners that own the land that provides an access road to other lots located on or along the same route. Easement widths and locations may vary, but reasonable access across the property can not be denied.

“Private Road” - A privately-owned road serving more than two (2) lots which shall also provide access for Township vehicles and equipment along with other public and/or private utility company vehicles to provide and maintain services.

“Professional Engineer” - An engineer licensed by the State of Michigan.

“Professional Land Surveyor” - A land surveyor licensed by the State of Michigan.

“Public Easement” - An easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way, which confers the right of unobstructed public access by motor vehicle or foot but does not obligate the municipality to repair or maintain the easement.

“Public Road” - A way or public easement for highway purposes held by any governmental body.

“Right-of-Way” - A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or location of utilities. The right-of-way is delineated by legally established lines or boundaries.

ARTICLE III - PRIVATE ROAD REQUIREMENTS

SECTION 3.02: DEFINITIONS - (Cont'd)

“Road” - Any public or private way designed for vehicular access, other than driveways, farm roads, trails or logging roads. The term “road” includes the normal meaning conveyed by synonymous words including street, avenue, highway, lane, court, and way.

“Seasonal Road” - Any road intended to provide access only during the months of May through October. These roads are not normally maintained nor snow plowed during the winter.

“Through Roads” - These are roads that serve as connections to public roads, providing circulation and access to commercial areas and residential developments. Through roads must accommodate both a regular flow of passenger vehicles and commercial traffic including trucks.

SECTION 3.03: FEES AND APPLICATION

The application fee for a Private Road Permit will be established by the Charter Township of Marquette Board and must be paid at the time of the application. The following information shall be submitted to the Township Zoning Administrator, or designee, as part of the Application for a Private Road Permit:

- A. A completed and signed Application for Private Road as provided by the Township. **Incomplete applications will not be processed and will be returned to the applicant.**
 - 1. Name of Applicant(s) and the names and addresses of the lot or parcel owners to be serviced by the proposed private road.
 - 2. Copies of any legal encumbrances affecting the land upon which the proposed road is located.
 - 3. Copy of a recordable, Access and Utility Easement(s) which addresses construction, road ownership/maintenance, costs and a Township Indemnification and Hold Harmless Clause. All access and utility easements shall run with the land.

- B. An illustrated sealed plan prepared by a Professional Engineer or Professional Land Surveyor addressing the following requirements:
 - 1. The estimated volume and type of traffic to use the road.
 - 2. The anticipated starting and completion dates of each phase of road construction.

ARTICLE III - PRIVATE ROAD REQUIREMENTS

SECTION 3.03: FEES AND APPLICATION - (Cont'd)

3. A description of erosion, sedimentation, and dust control measures to be employed during and following construction.
 4. A description of storm water management and drainage provisions, together with supporting calculations and documentation.
 5. The proposed private road plan(s) shall include the following items: scale, the direction of magnetic North; the starting and ending point of the proposed road with relation to established roads and any planned or anticipated future extensions; the boundary lines of all properties abutting the proposed road, including any new lots or parcels to be created.
 - a. Proposed locations of driveways affording access to the private road.
 - b. All natural waterways; the location and profile, including size and capacity of all existing and proposed storm water management and drainage structures, including sanitary sewer or septic systems, water lines or private wells.
 - c. A copy of the Marquette County Road Commission or Michigan Department of Transportation Driveway Permit if the proposed road accesses a public Right-of-Way.
 - d. The design and profile of the fifty (50) feet of the proposed road at its intersection with any public or private road intersection; if proposed to be over three hundred (300) feet in length, the design of an emergency vehicle turnaround.
 - e. The location of all existing and proposed overhead and underground utilities.
 - f. The location of existing and proposed structures.
 - g. A cross section of the proposed road, showing the types and depths of material to be used in the sub-grade, road base and surface.
 - h. The number of plan copies submitted for processing purposes will be determined by the Zoning Administrator, or designee.
- C. Upon completion of construction, the licensed professional shall submit a report whenever a private road is constructed or reconstructed or extended which is subject to the terms of this Section. A Zoning Compliance Permit for any building or any additional building accessed by the private road shall not be issued until the owner's licensed professional has certified to the Township, with sealed documentation, that the private road has been constructed, reconstructed or extended in compliance with all of the applicable requirements of this Section.

ARTICLE III - PRIVATE ROAD REQUIREMENTS

SECTION 3.03: FEES AND APPLICATION - (Cont'd)

The certification shall specifically include, without limitation, the requirements of this Section for the Subbase, the Aggregate Base Course, and the Overlay of the base course, as required by the approved construction plans.

SECTION 3.04: STANDARDS FOR APPROVAL

The proposed private road shall comply with the minimum construction, alignment, spatial and material standards of the Marquette County Road Commission and meet the following standards:

- A. The minimum right-of-way width shall be sixty-six (66) feet.
- B. Adequate sight distance of ten (10) times speed limit in feet (e.g., 25 mph zone requires 250 feet) visibility in each direction. This shall be measured from where the driver's seat of a vehicle would be situated fifteen (15) feet from the edge of the shoulder, with eye level at three and one half (3-1/2) feet, to the top of an object at four and one half (4-1/2) feet above the pavement.
- C. Storm Drainage shall neither erode the proposed road nor wash directly onto an adjacent public road.
- D. Proposed roads and rights-of-way over three hundred (300) feet long shall provide an adequate place for emergency vehicles to turn around in accordance with the requirements set forth in Article XX, Section 20.07, Item B of the Charter Township of Marquette Zoning Ordinance.
- E. No fence, wall, sign, screen or any planting shall be erected or maintained in such a way as to obstruct vision within a Clear View Triangle described as being located between a height of three (3) and ten (10) feet within the triangular area formed by the intersection of a road right-of-way line and a private road right-of-way line and a line connecting two (2) points which are located on the intersecting right-of-way lines, thirty (30) feet from the point of intersection.
- F. Parcels fronting on private roads shall meet the required front yard setback and lot width for their specific Zoning District as set forth in the Charter Township of Marquette Zoning Ordinance.
- G. All Division of Unplatted Land shall be in compliance with Article II, Land Development Requirements, Section 2.20 thru 2.24 of this ordinance.
- H. The angle of intersection with any public road, or road right-of-way shall be as close to 90° as possible, but not less than 70°.

ARTICLE III - PRIVATE ROAD REQUIREMENTS

SECTION 3.04: STANDARDS FOR APPROVAL - (Cont'd)

- I. For roads servicing any permanent, year-round structure, it is required that private roads and rights-of-way that are over three hundred (300) feet long shall meet current Marquette County Road Commission paved road specifications to facilitate emergency vehicle access. If this standard is not met, the affected owners must acknowledge added risk and sign a separate recordable Indemnification and Hold Harmless statement affecting their property and acknowledging that emergency vehicle access may not be possible, and may involve above average risk to life and property.
- J. All private roads must be constructed according to the current requirements of the Marquette County Road Commission paved road specifications if any of the following conditions occur:
1. The road serves three (3) or more residential lots.
 2. The road provides access to any multiple family development(s).
 3. The road provides connection between any two (2) public roads.
 4. The road provides access to industrial or commercial property.
- K. In reviewing the Application for Private Road construction, the Township Zoning Administrator, or designee, may approve the Permit or may schedule a public hearing to be held by the Township Planning Commission. All public notification requirements, outlined in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, shall be followed. The Zoning Administrator, or designee, may also request that the plans be submitted for review and comments to the following agencies along with other agencies which may be deemed necessary.
1. The Township Engineer
 2. County Drain Commissioner
 3. County Road Commission
 4. County Conservation District
 5. Michigan Department of Environmental Quality
 6. The Michigan Department of Transportation
 7. Other Agencies as may be determined necessary by the Zoning Administrator.
- L. Public Hearing Approval General Standards
- The Township Planning Commission shall review the particular circumstances for all private road requests under consideration in terms of the following standards, and shall recommend approval of a private road only upon a finding of compliance with following standards:
1. The private road and its intended use shall be designed, constructed, operated and maintained in a manner not to be detrimental to the health, safety and welfare of the proposed use or users of the road, adjacent property and the surrounding area.

ARTICLE III - PRIVATE ROAD REQUIREMENTS

SECTION 3.04: STANDARDS FOR APPROVAL - (Cont'd)

L. Public Hearing Approval General Standards, (Cont'd)

2. The proposed private road shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
3. The proposed private road and its intended use shall not place demands on public services and facilities in excess of current capacity.
4. The proposed private road shall be consistent with the intent and purpose of this Ordinance, and the objectives of any adopted Charter Township of Marquette Development Plans and/or Policies.
5. The proposed private road shall provide access to Township vehicles and equipment as well as other public/private utility companies to provide necessary services.
6. The owners(s) of the proposed private road shall pay for and install a road sign at the time the road is constructed. The sign and location must be the same type and design as existing Township signs and the road name approved by the Township.

M. Conditions

The Township Planning Commission may impose conditions along with the approval of a private road which are necessary to insure compliance with the standards for approval stated in this Section along with any other applicable standards contained in this Section. Any such conditions shall be considered an integral part of the Private Road Permit approval and shall be enforced by the Zoning Administrator, or designee. In addition, the Township Planning Commission shall also consider the activity levels of the proposed road and may impose conditions to insure the preservation and protection of property values of adjacent properties.

SECTION 3.05: ROAD PERMIT DENIAL/RIGHT TO APPEAL

If any of the applicable conditions as outlined above are not met or there is information missing from the application, the Marquette Township Zoning Administrator, or designee, shall deny the Private Road Permit Application.

If the applicant determines that the Marquette Township Zoning Administrator, or designee, has erred in their interpretation of this Section, the applicant may file an administrative written appeal with the Charter Township of Marquette Zoning Board of Appeals within thirty (30) days of the date of denial.

ARTICLE III - PRIVATE ROAD REQUIREMENTS

SECTION 3.05: ROAD PERMIT DENIAL/RIGHT TO APPEAL (Cont'd)

If the applicant is aggrieved by the denial of a Private Road Permit and it is practical difficulty, or undue hardship, the applicant may request a variance from the Marquette Township Zoning Board of Appeals pursuant to standards for a variance as set forth in the Charter Township of Marquette Zoning Ordinance. All public notification requirements of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, shall be followed.

SECTION 3.06: CONSEQUENCES OF NON-COMPLIANCE

Any parcel accessed by a private road created by non-compliance with this Section shall not be granted a Zoning Compliance Permit, Zoning Approval for Land Divisions, or a Special Land Use or Site Plan Approval. In addition, any violation of this Section shall subject the violator to the fines and enforcement actions set forth in Article V, Section 5.06, Penalties, and Section 5.07, Remedies.

SECTION 3.07: EXISTING PRIVATE ROADS

Private roads that were created prior to the adoption of this Ordinance shall be subject to all the conditions specified in this Section for any addition or extension to the existing private road. Any parcel accessed by an extension of an existing private road created in non-compliance with this Section shall not be granted a Zoning Compliance Permit, Zoning Approval for Land Divisions, or a Special Land Use or Site Plan Approval.

ARTICLE IV - CHANGES AND AMENDMENTS

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ARTICLE IV - CHANGES AND AMENDMENTS

SECTION 4.01: PURPOSE AND INTENT

To assure sound, consistent, and desirable development within the Charter Township of Marquette, this Ordinance may be amended from time to time as conditions warrant. Revisions may be required due to Michigan Statutory Amendments, to correct or clarify certain sections, or to revise or change regulations, restrictions, or standards.

SECTION 4.02: CHANGES AND AMENDMENTS

Changes and amendments to this Ordinance shall be consistent with the following procedures:

A. Initiation

Only the Township Board has the authority to amend or change this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion or recommended, by the Planning Commission.

B. Text Amendments

An amendment to the text of this Ordinance shall state in particular the Article, Section, Subsection, and Paragraph sought to be amended. The amendment language shall be complete and shall state the reasons for the proposed change in the text.

SECTION 4.03: PROCEDURES OF THE AMENDMENT PROCESS

All Procedures for amendments shall comply with the requirements of the Charter Township Act, Public Act 359 of 1947, as amended (M.C.L. 42.1, et seq.) which are summarized as follows:

- A. The complete text of the proposed amendment shall be introduced at a Township Board meeting in written or printed form.
- B. The complete text of the proposed amendment shall be published or posted as it was introduced, indicating when it will be considered for adoption by the Township Board
 - 1. For the publication option:
 - a. The complete text of the proposed amendment shall be published as it was introduced at least one (1) time in a newspaper circulating within the Township.

ARTICLE IV - CHANGES AND AMENDMENTS

SECTION 4.03: PROCEDURES OF THE AMENDMENT PROCESS (Cont'd)

2. For the posting option:
 - a. The complete text of the proposed amendment shall be posted as it was introduced at the Township Clerk's office and at five (5) other public places within the Township, or at the Township Clerk's office and on the Township's website; and
 - b. A notice of the posting shall be published at least once in a newspaper circulating within the Township within seven (7) days after the posting was completed. The notice of posting must describe the purpose or nature of the proposed amendment and identify the locations within the Township where the complete text of the proposed amendment was posted.
- C. File the Affidavit of Publication from newspaper and/or Affidavit of Posting in the Township Ordinance Records.
- D. Adopt the Ordinance amendment by a motion approved by the majority of Township Board members voting, on a roll call vote, at any regular meeting or properly scheduled special meeting. The minutes of the meeting must reflect the decision and the vote.
- E. Publish a complete amendment or legally proper summary of the amendment as adopted, or post the complete amendment as adopted, within thirty (30) days after the date of adoption.
 1. For the publication option:
 - a. Publish the complete amendment as adopted, or a summary of the amendment, in a newspaper circulating within the Township within thirty (30) days after the date of adoption. If a summary of the amendment is published; the following procedures shall be required:
 - (i) It may be prepared by the person who drafted the amendment, by the Township Board or legal counsel.
 - (ii) It must be written in clear and non-technical language.
 - (iii) Each section must be preceded by a "catch line", as appropriate.
 - (iv) It must designate the location in the Township where a true copy of the complete amendment can be inspected or obtained.

ARTICLE IV - CHANGES AND AMENDMENTS

SECTION 4.03: PROCEDURES OF THE AMENDMENT PROCESS (Cont'd)

2. For the posting option:
 - a. The complete text of the amendment shall be posted as adopted at the Township Clerk's office and at five (5) other public places in the Township, or at the Township Clerk's office and on the Township's website; and
 - b. A notice of the posting shall be published at least once in a newspaper circulating within the Township within seven (7) days after the posting was done. The notice of posting must describe the purpose or nature of the amendment and identify the locations in the Township where the complete amendment was posted.

- F. File the Affidavit of Publication from the newspaper and/or Affidavit of Posting in the Township Ordinance records.

- G. File an Attested Copy of the amendment with the County Clerk within one (1) week after the Publication/Posting. This is not required if the Township offices are open to the public during regular hours on each business day.

- H. Record the complete amendment in Township Book of Ordinances within one (1) week after Publication/Posting, with the Certificate of the Township Clerk, Recording date of adoption of amendment, names of the Township Board members voting thereon, how each member voted, the date of Publication/Posting and the name of the newspaper, and where applicable, the date of filing of the Ordinance with the County Clerk.

- I. Authentication of the record by the Township Supervisor and the Township Clerk both signing the Ordinance Certificate.

- J. Distribution of copies of new Ordinance to all appropriate Township officials.

ARTICLE V - ADMINISTRATION AND ENFORCEMENT

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ADMINISTRATION AND ENFORCEMENT

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ARTICLE V - ADMINISTRATION AND ENFORCEMENT

SECTION 5.01: PURPOSE

This Article sets forth the procedures required for administration, enforcement and fees associated with this ordinance. The authority and duties of the Township Board, Zoning Administrator, and the Planning Commission are also specified.

SECTION 5.02: ADMINISTRATION

The responsibility for the administration and enforcement of this Ordinance shall rest with the Township Supervisor, who along with the Township Board, shall have the authority to delegate responsibility to appropriate Township officers and/or employees. The individual administering and enforcing this Ordinance shall be the Zoning Administrator, or designee, and shall have the power of a public official in implementing enforcement procedures.

SECTION 5.03: APPROVALS

Any development permitted by this Ordinance, including Subdivision Plats and Lot Divisions thereof, Condominium Development and unit divisions thereof, Parcel or Tract Land Divisions, or Private Road Construction, may not be commenced until the required approvals, specified within these Articles and Sections have been received. No structure shall be erected, constructed, reconstructed, altered, moved onto a site nor removed therefrom, and no building used, occupied, or altered with respect to its use, until a Zoning Compliance Certificate has been secured from the Zoning Administrator. Nothing herein shall relieve any applicant of the additional responsibility of seeking any permit required by any applicable statute, ordinance, or regulations in compliance with all of the requirements of the Charter Township of Marquette Zoning Ordinance.

SECTION 5.04: ZONING ADMINISTRATOR, DUTIES AND POWERS

- A. The Zoning Administrator or designee, shall be appointed by the Township Board and shall have the responsibilities and the authority to review, comment, process, approve, deny, administer and enforce, as appropriate, the provisions of the Access Control & Land Development Ordinance as detailed in the Articles and Sections of this Ordinance.

SECTION 5.05: DUTIES OF THE PLANNING COMMISSION

- A. The Planning Commission shall have the duty and the authority to Review, Comment, Recommend, Appeal or Deny approval of all Land Development Proposals including Subdivision Plats, Condominium Developments, Land Divisions and Private Roads, in accordance with Provisions and Requirements as set forth in the Access Control and Land Development Ordinance as detailed and outlined in the Articles and Sections herein.

ARTICLE V - ADMINISTRATION AND ENFORCEMENT

SECTION 5.06: PENALTIES

A. Civil Law

Any buildings or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed in violation of any of the provisions of this Ordinance is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

B. Civil Law Penalties

Any person, firm, or corporation found violating the provisions of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not less than \$50 or more than \$500 as determined on the basis of the facts surrounding the violation(s). In no case, however, shall costs of less than \$10 be ordered. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

SECTION 5.07: REMEDIES

The Township Board may also institute proceedings for injunction, mandamus, abatement, or other appropriate remedies to prevent, enjoin, abate, or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, jail sentence, or both, shall not exempt the violator from compliance with the provisions of this Ordinance.

SECTION 5.08: FEES

A. To assist in defraying the costs of investigating, reviewing, and administering development applications, appeals, and other types of actions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a schedule establishing required fees related to the following:

1. Pre-Preliminary, Preliminary, Final Preliminary approvals of Subdivision Plats with private/public utilities or combination thereof and development completion;
2. Pre-Preliminary, Preliminary approvals of Condominium Development Plans with private/public utilities or combination thereof and development completion;
3. Variance/waiver applications for Subdivision Plats and Condominium Development Plans;

SECTION 5.08: FEES, (Cont'd)

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4. Division of platted lots, including both buildable and non-buildable divisions;
5. Division or relocation of condominium unit boundaries;
6. Division of unplatted land;
7. Appeals of Land Division denials;
8. Private Road applications;
9. Appeals of Private Road application denials;
10. Any other discretionary decisions by the Planning Commission, Zoning Board of Appeals, or Zoning Administrator/designee.

The amount of these development fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing public notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by Township staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The required fees shall be paid before any application required under this Ordinance is processed, and are non-refundable, even when an application or appeal is denied or withdrawn by the applicant.

- B. If the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that the required fees will not cover the actual costs of the application review or appeal, or if the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Treasurer such additional fees in an amount determined by the Planning Commission, Zoning Board of Appeals or Zoning Administrator equal to the estimated additional costs. These required fees are necessary to obtain a professional review of a project which may potentially create a negative impact on public roads, other infrastructure or services, or on the subject or adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

ARTICLE V - ADMINISTRATION AND ENFORCEMENT

SECTION 5.08: FEES, (Cont'd)

The development fees shall be used to pay for the professional review expenses of the professionals whose expertise Marquette Township values to review the proposed application, site plan, traffic impact study or other documents of an applicant. The professional review will result in a report to Marquette Township indicating the extent of conformance or nonconformance with this Ordinance and to identify and problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review or report completed for Marquette Township and a copy of the statement of expenses for the professional services rendered, if requested. The additional development fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission, Zoning Board of Appeals or Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission, Zoning Board of Appeals or Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal.

Failure of the applicant to make any escrow deposit required under this ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or release of a final decision on an appeal. Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.

ARTICLE V - ADMINISTRATION AND ENFORCEMENT

SECTION 5.09: EFFECTIVE DATE AND TOWNSHIP SUPERVISOR AND CLERK SIGNATURES

In accordance with the provisions and procedures as set forth in the *Charter Township Act, P. A. 359 of 1947, as amended, MCL 42.1 Et. Seq.*, A Notice of Ordinance Adoption shall be published within seven (7) days of the date this Ordinance is adopted by the majority vote of the Township Board, and it shall take effect and be in force on the date of publication.

1. Publication date of Notice of Public Hearing _____, 2009.

2. Public Hearing date and recommendation to adopt by the Planning Commission of the Charter Township of Marquette, Marquette County, Michigan, on this _____ day of _____, 2009.

3. Officially adopted by the Township Board of the Charter Township of Marquette, Marquette County, Michigan, on this _____ day of _____, 2009.

4. Publication date of Notice of Ordinance Adoption _____, 2009.

Ray J. Adamini
Charter Township of Marquette Supervisor

Patricia D. Mayer
Charter Township of Marquette Clerk