

## **Section 54.502 Land Division Regulations**

- (A) Purpose.** The City finds that this section is necessary to regulate the division and partitioning of parcels of land which are not subject to platting procedures and requirements, and to regulate division and partitioning of parcels located in recorded subdivisions. The purpose of this section is to enable the parcel owners in the City of Marquette to divide their parcels, including subdivision parcels as there is a legitimate question of law as to whether subdivision parcels can be split without a City ordinance to that effect. This section shall promote the public health, safety, and general welfare by regulating the division of parcels so that the resulting partial parcel owners and neighboring parcel owners shall not be adversely affected by undersized parcels of land or illegal parcel splits. This section is created pursuant to Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended. This section of the Land Development Code shall be considered the ordinance referred to in Section 109(5) of Public Act No. 288 of 1967 (MCL 560.109(5)) which have been adopted to carry out the provisions of Act No. 288.
- (B) Definitions.** In addition to the definitions in Article 2, related terms defined elsewhere in the Land Development Code, and Public Act 288 of 1967 (Land Division Act), the following definitions apply to this Section:
- (1) Division or Split:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of this Ordinance and Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended. The term "division" does not include a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this Ordinance.
  - (2) Exempt Split:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns that does not result in 1 or more parcels of less than 40 acres or the equivalent. For a property transfer between 2 or more adjacent parcels, if the property taken from 1 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 this Ordinance.
  - (3) Subdivide or Subdivision:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended. "Subdivide" or "subdivision" does not include a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this Ordinance or Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended.

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- (C) **Scope of Regulations.** Parcels in the city shall not be divided without prior review and approval by the City Assessor, or other official designated by the City Commission, upon consultation with the Zoning Administrator, in accordance with the provisions of this section, unless the division or partition is approved and a part of a recorded plat, pursuant to Public Act No. 288 of 1967 (MCL 560.101 et seq.), or unless such division or partition is approved pursuant to the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.). Exempt from the requirements of this section are parcels split through a Circuit Court action under MCLA 560.221 through 560.229.
- (D) **Application for Land Divisions.** An applicant shall file with the City Assessor, or other official designated by the City Commission, all of the following for review and approval of a proposed parcel split before any split can be made:
- (1) **Application.** A completed application on such form as may be provided by the City. If a transfer of division rights is proposed in the land transfer, then information about the terms and availability of the proposed division rights transfer shall be submitted with the application. Such information shall be in a form that satisfies the written notice requirements specified in Section 109(2) of the Land Division Act.
  - (2) **Proof of Ownership.** Proof of fee ownership of the land to be divided.
  - (3) **Survey or Tentative Parcel Map.** A survey or tentative parcel map of the parcel, including the location, setbacks, and dimensioned encroachments of all existing structures, indicating the adequate and accurate dimensions and legal description of the entire parcel and each split to be made. The survey or tentative parcel map must include the means of access from each resulting parcel to an existing road or street, the location of all existing and proposed public and private easements and rights-of-way, and the location of surface water, lakes, ponds, streams, and wetlands.
  - (4) **Legal Descriptions.** A legal description of existing parcels of land involved in the proposed land division. Tentative approval may be granted without formal legal descriptions of all parcels that would result from the requested division of land, but legal descriptions must be received before final approval is granted. The legal descriptions shall be in a form sufficient for recording with the Marquette County Register of Deeds, and shall indicate the acreage of all parcels.
  - (5) **Deed Restrictions.** Copies of existing or proposed deed restrictions related to the proposed parcels.
  - (6) **Proof that Land Division Standards are Met.** Proof that all requirements of Section 54.502(F) of this section have been met.
  - (7) **History of Prior Divisions.** History of any prior parcel splits regarding this parcel.
  - (8) **Fee.** The fee as may from time to time be established by resolution of the City Commission.
- (E) **Procedures for Review and Approval.**

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- (1) Application Review.** Upon receipt of a land division application and all other supporting documents, the City Assessor, or other official designated by the City Commission, upon consultation with the Zoning Administrator, shall approve, approve with reasonable conditions to assure compliance with this article, or disapprove the parcel split within 45 days after receipt of the complete application package. The applicant shall be sent notice of the decision in writing within the 45 days and, if disapproved, the reasons for the denial. If the application package does not conform to the article requirements, the application may be returned to the applicant for refiling. If the land division application meets the requirements of this Ordinance but includes a tentative parcel map instead of a survey, the land division application shall be approved with conditions within 45 days with the condition that a survey must be submitted for City review and confirmation with Ordinance standards prior to recording the land division survey with the Marquette County Register of Deeds.
  - (2) Appeals.** Any applicant aggrieved by the decision of the Assessor, or designee, may, appeal the decision per Section 54.1404.
  - (3) Record of Applications and Decisions.** The City Assessor, or other official designated by the City Commission, shall maintain an official record of all parcel splitting applications and decisions.
- (F) Standards for Granting Land Division Approval.** The splitting or partitioning of a parcel is prohibited unless approved in the manner required by this section in complete accordance with the following rules and regulations:
- (1) Number of Divisions for Non-Platted Parcels.** The number of parcels created by a land division shall not exceed the amount specified by Section 108 of the Land Division Act (MCL 560.108). Accordingly, a proposed land division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following:

    - (a)** For the first ten (10) acres, or fraction thereof, in the parent parcel or parent tract: four (4) parcels.
    - (b)** For each whole ten (10) acres in excess of the first ten (10) acres in the parent parcel or parent tract: one (1) additional parcel, for up to a maximum of 11 additional parcels.
    - (c)** For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract: one (1) additional parcel.
    - (d)** If the parent parcel or parent tract is 20 acres or greater, the land division may result in a total of two (2) additional parcels, provided, one or both of the following conditions exist:

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- (i) Because of the establishment of one or more new roads, no new driveway access to an existing public road is required or created for any of the resulting parcels.
  - (ii) One of the resulting parcels comprises not less than 60% of the area of the parent parcel or parent tract.
- (e) A parcel of 40 acres or more created by the division of a parent parcel or parent tract shall not be counted toward the number of parcels permitted, and is not subject to Section 109 of the Land Division Act (MCL 560.109).
- (2) Additional Future Divisions for Non-Platted Parcels.** A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of the Land Division Act if all of the following requirements are met:
- (a) Not less than ten (10) years have elapsed since the parcel or tract was recorded.
  - (b) The partitioning or splitting results in not more than the following number of parcels, whichever is less:
    - (i) Two (2) parcels for the first ten (10) acres, or fraction thereof, in the parcel or tract, plus one (1) additional parcel for each whole ten (2) acres in excess of the first ten (10) acres in the parcel or tract.
    - (ii) A total of seven (7) parcels, except that a total of ten (10) parcels may result if one of the resulting parcels under this subsection comprises not less than 60% of the area of the parcel or tract being partitioned or split.
    - (iii) The partitioning or splitting satisfies the requirements of Section 109 of the Land Division Act (MCL 560.109).
- (3) Depth-to-Width Ratio of Non-Platted Parcels.** Depths of parcels created as a result of division of land shall be not greater than four (4) times the parcel width. The City may permit parcels with proportions that vary from such standards where such action would reduce existing nonconformance with the standards set forth in this Ordinance or, in the determination of the Zoning Administrator, a variation is necessary due to exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands.
- (4) Zoning Requirements for Non-Platted Parcels.** All parcels created as a result of a division of land shall comply with all applicable zoning requirements, including minimum lot area, lot width, public road frontage and parking requirements. Each parcel created as a result of a division of land shall be "accessible" (see definition of "Accessible" in Public Act 288 of 1967, as amended). A parcel that is smaller in area than currently required by this Ordinance shall not be divided further. Notwithstanding such requirements, land division proposals may be approved in the following circumstances:

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- (a) When the proposed division of land would reduce the degree of existing nonconformity with zoning standards; or
  - (b) When the division of land is proposed with the intention of immediately combining portions of the original parcel with additional land for the purpose of creating a new parcel, provided the new parcel is in compliance with this Ordinance or reduces the degree of nonconformity with zoning requirements.
- (5) Division of Land in a Recorded Plat.** A subdivision parcel, outlot, or other parcel of land in a recorded plat may be divided pursuant to the requirements of this section only if such parcel, outlot, or other parcel meets all of the following requirements:
- (a) No parcel in a recorded plat shall be divided into more than four (4) parts.
  - (b) No resulting parcel shall be less than those dimensions prescribed in this Ordinance.
  - (c) All resulting lots shall abut a public road or an existing private road on a recorded plat map.
  - (d) In the event that one or more of the four (4) possible resulting parcels would be an addition to an adjoining subdivision parcel, without creating a new parcel, the width and area requirements of this Ordinance do not have to be met. The resulting parcel cannot be split off from the adjoining parcel as a separate parcel. See definitions of "Division," "Exempt Split," and "Subdivide or Subdivision" in Section 54.502(B) for property transfers between two (2) or more adjacent parcels.
- (G) Enforcement.** The City Assessor or other designated official shall inform the grantors and grantees of any such violation of this section and these parties shall take immediate steps to correct the matter. In the event that the violation of this section is not corrected within 30 days after written notice is mailed or personally delivered, the violation may be punished as a municipal civil infraction in accordance with Article 15.