RECORD OF ORDINANCES

Township of <u>Evangeline</u>	ORDINANCE NOAmendments to #14 County of Charlevoix	
Ordinance No enacted by th Amendments to #14 Published: January 27	e Board <u>December 6</u> , 19 <u>93</u>	
Effective 30 days after publication	, 19	
Record of votes of Board Members: (Yes or No)	(Yes or No.)	
Doug Shields (_Yes_)	Michelle Cortright (Yes)	
Bruce Janssen (Yes)	Rachel Swiss (Yes)	
Mike Weeks(_Yes_)	()	
I CERTIFY that publication was made onJanuary 27, 19_94 within the days after cractment of continuous		
Signed:, Township		
THE TOWNSHIP OFEvange	line ORDAINS,	

See the following 14 pages.

Signed Supervisor Clerk
THE J. H. SHULTS CO. MANISTEE

1	TOWNSHIP OF EVANGELINE		
2	COUNTY OF CHARLEVOIX, STATE OF MICHIGAN		
_3	PRIVATE ROAD ORDINANCE		
5 6 7 8 9 10 11 12 13	An Ordinance to regulate the construction of private roads or accesses, the creation of lots, parcels or condominium units adjacent to said private roads and the construction of structures on said lots, parcels or condominium units. This Ordinance is pursuant to, but not limited to, Act 288 of the Public Acts of 1967, as amended; Act 246 of the Public Acts of 1945, as amended; and Act 132 of the Public Acts of 1970, as amended; of the State of Michigan; to provide a procedure therefore; to repeal any ordinance or provisions thereof in conflict herewith and to prescribe a penalty for the violation of the provisions of this ordinance.		
15	Article I		
16	Section 1.01-Title		
17 18	A. This ordinance is named the EVANGELINE TOWNSHIP PRIVATE ROAD ORDINANCE.		
19	Article II		
.)	Section 2.01-Legislative Determination		
21 22 23 24 25 26 27 28	A. It has been determined in order to maintain the orderly development within the Township and to provide for the health, safety and welfare of the residents and property owners of the township, that the Township of Evangeline regulate the construction of private roads, and the creation of lots, parcels or site condominium units served or to be served by said private roads and construction of structures on said lots, parcels or condominium units.		
29	Article III		
30	Section 3.01-Definitions		

A. Access Drive: That portion of a lot, parcel or site condominium unit used for access between the building envelope and either a public road or private road

B. Applicant: A person, firm, association, partnership, corporation, or combination of any of them which may hold any divisible interest in land, whether recorded or not, who is seeking approval for construction of a private road or the division or partitioning of land pursuant to this Ordinance.

- C. Building Envelope: The principle building or structure intended for or constructed upon a lot, parcel or site condominium unit, together with any attached or detached accessory structures (e.g. for a residential use, the building envelope would refer to the dwelling unit and any structures accessory to the use of said dwelling such as garages, storage sheds, decks, etc).
- 8 C. Divide or partition: The process of dividing any tract of land into parts (e.g. lots, parcels, or site condominium units) where the division is not subject to or pursuant to procedures under the Subdivision Control Act (P.A. 288 of 1967 as amended).
- D. Condominium Act: Michigan P.A. 59 of 1978 as amended.

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- 14 E. Condominium Structure or Building Envelope: The principle
 15 building or structure intended for or constructed upon a lot
 16 or site condominium unit, together with any attached
 17 accessory structures, e.g., in a residential development,
 18 the condominium structure or building envelope would refer
 19 to the dwelling and any accessory structures.
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- F. Site Condominium Unit: That portion of a condominium project designed and intended for separate ownership interest and use, as described in the Master Deed.
- G. Condominium Project: Any land developed under the provisions of the Condominium Act.
- 26 H. Land: The surface area known as real estate.
- 27 Lot, parcel or tract: Contiguous areas of land under the 28 ownership of the same person(s). Lot may also refer to land 29 which is described and fixed in a recorded plat. 30 is referred to in a Condominium Project shall mean that 31 portion(s) of a Condominium Project designed and intended 32 for separate ownership interest and use, as described in the 33 Master Deed, regardless of whether it is intended for 34 residential, office, industrial, business or recreational 35 use as a time-share unit, or any other type of use.
- J. Master Deed: The legal document prepared and recorded pursuant to the Condominium Act, 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.
 - K. Parent Parcel: Any legally created lot, parcel or site condominium unit from which other lots, parcels or site condominium units are created from.

- L. Private road: An area of land used for passage to and from land which is not a public road.
 - M. Public road: An open way for passage or travel under public ownership and/or maintenance.
 - N. Structure: Any production or pieces of work artificially built up or composed of parts joined together in some definite manner, including but not limited to dwellings, decks, garages, buildings, satellite dishes, sewage disposal systems, drainfields, signs and signboards. This definition does not include incidental items such as birdhouses, birdbaths, utility poles, flag poles, swingsets, etc.
- 12 0. Township Board: The Evangeline Township Board of Trustees.

13 Article IV

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- Section 4.01-Creation of Lots, Parcels or Site Condominium Units and Construction of Structures and Accesses
- A. Except as outlined in item C. of this Section, it shall be unlawful to create, divide or partition any lot, parcel or condominium unit or construct a structure on a lot, parcel or site condominium unit which does not have a lot line fronting either a public or private road for a distance as called for in the Evangeline Township Zoning Ordinance.
- B. A minimum of one (1) private road outlet onto a public road shall be allowed per parent parcel. In situations where a parent parcel a has a large amount of public road frontage, one (1) additional outlet shall be allowed for every full six hundred (600) feet of public road frontage. Multiple private road outlets on a single parent parcel shall be located a minimum of six hundred (600) feet linear from each other.
- C. The Township Board or it's designated agent may authorize a maximum of two (2) additional divisions of preexisting parent parcels only when the following conditions exist:
 - The preexisting parent parcel has a minimum of one hundred (100) feet of frontage (not an easement) on a public road;
 - 2. and is presently serviced by a preexisting private road.

Divisions in theses situations may only be authorized after the Planning Commission has reviewed the proposed division and has determined that no useful purpose would be served by the construction of an additional private road. Said divisions must conform with the provisions of all other Township ordinances.

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Article V

Section 5.01-General Standards

- A. All private roads constructed in Evangeline Township shall be constructed in a good and workmanlike manner upon and parallel to the centerline of a permanent right-of-way easement duly recorded with the Charlevoix County Register of Deeds. Such easements shall meet the following requirements:
 - 1. Shall be a minimum of sixty six (66) feet wide, unless additional right-of-way is required for adequate construction.
 - The right-of-way easement width on curved portions of roads shall be the same as for tangent portions.
- B. All roads constructed in Evangeline Township shall be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage and prevent soil erosion. Stormwater retention basins shall be designed to store all stormwater runoff from a two and one half (2.5) inch in a twenty-four (24) hour period rainfall event.
- C. Soil erosion and stormwater runoff control measures shall be applied as per Charlevoix Soil & Water Conservation District standards and specifications. (Note: To minimize soil erosion, unpaved roads and access drives shall have box culverts installed and maintained. Said culverts shall constructed as per the design and be spaced according to the requirements of Appendix A of this Ordinance.
- D. Private roads shall be laid out to the greatest extent feasible to achieve the following objectives: (Listed below in order of priority, as it is recognized that some may conflict with others on any given site).
 - 1. On soils not classified as "hydric" (wetland soils) by the USDA Soil Conservation Service.
 - Along fence rows or the edges of the open fields adjacent to any woodlands (to reduce impact upon agriculture or forestry uses and shelter from winter winds, and to enable new construction to be visually absorbed by natural landscape features).

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4. On areas not considered prime or unique farmlands or in areas considered as prime forestland soils on a national or regional basis.

as seen from public roads and waters.

In locations least likely to impact scenic vistas,

Excessive grade cuts or fills [greater than six feet] shall only be allowed if the Township Board or it's designated agent finds that said cuts and

fills shall be shielded from scenic views by

11 E. All private roads shall have names approved by the Township 12 Board and accepted by the Charlevoix County Numbering System 13 and Charlevoix County Road Commission.

vegetation or topography.)

- F. Identification signs shall be required for private roads and shall be similar in design to those identifying public roads in the township. In addition to road identification. private road signs shall also include the wording "PRIVATE ROAD" in a minimum of four (4) inch high letters and "NOT MAINTAINED BY CHARLEVOIX COUNTY ROAD COMMISSION" in a minimum of two (2) inch high letters.
- All private roads servicing or to serve two (2) or more lots, parcels or condominium units shall have a road maintenance agreement and deed restrictions which provides for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the several interests involved. documents shall contain the following provisions:
 - 1. A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
 - 2. A workable method of apportioning the costs of maintenance and improvements.
 - з. Contain provisions that the owners of any and all of the property using the easement shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen and others bound to or returning from any of the properties having a right to use the road. Provisions shall be included to allow ingress and egress of emergency and other public vehicles for whatever public services are necessary.

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- 4. A notice that if repairs and maintenance are not made, the Township may bring the road up to the design standards specified in this Ordinance and assess owners of lots, parcels or site condominium units serviced by the private road for the improvements, plus an administrative fee in the amount of 25% for out-of-pocket costs.
- 5. A notice that except for situations describe in G4 above, no public funds of the Township of Evangeline are to be used to build, repair or maintain the private road.

Section 5.02-Specific Standards

- A. A private road serving or to serve less than seven (7) lots, parcels or site condominium units shall at a minimum meet the following design standards:
 - .1. Have a sand and gravel base of not less than twelve (12) inches in depth of which the top six (6) inches in depth shall be at a minimum road grade gravel;
 - 2. Have a roadbed not less than sixteen (16) feet wide;
 - Be constructed over adequate culverts where necessary;
 - 4. The maximum road grade on curved portions of a private road shall not exceed seven (7%) percent. The maximum road grade on those portions of a road where the change in road direction does not exceed fifteen (15) degrees per one hundred (100) feet of road distance shall not exceed ten (10%) percent.
 - 5. All portions of a private road exceeding the seven (7%) grade standard shall be paved according to the specifications outlined in Section 5.02B.
 - 6. Each road intersection shall be approximately ninety (90) degrees, each leg of the intersection shall be tangent for at least one hundred fifty (150) feet and the maximum road grade within that length shall not exceed three (3%) percent.
 - 7. Intersection sight distances shall conform with Division 4.1G of the Charlevoix County Road Commission Requirements and Specifications for Plat Development and Road Construction.
- B. A private road serving or to serve more than six (6) lots, parcels or site condominium units but less than thirteen (13) lots, parcels or condominium units shall at a minimum

1 meet design specifications and road construction standards as outlined in Divisions 4 through 6 and Division 10 of the Charlevoix County Road Commission Requirements and Specifications for Plat and Development Road Construction with the following exceptions: On the Typical Road Cross Section in Division 10.1 the: 1. minimum Finished Grade shall be nineteen (19) a. 8 feet; 9 b. minimum Pavement width shall be eighteen (18) 10 11 the minimum Gravel Base width shall be nineteen c. 12 feet (19) feet; 13 d. gravel shoulders are not required but the pavement 14 shall be flush with the shoulder elevation; 15 The maximum road grade on curved portions of a private 2. 16 road shall not exceed seven (7%) percent. 17 portions of a road where the change in road direction 18 does not exceed fifteen (15) degrees per one hundred 19 (100) feet of road distance, the maximum road grade 20 shall not exceed ten (10%) percent. 21 In situations where the proposed road grade shall not 3. ۷3 exceed three (3%) percent the Township Board or its 24 designated agent may waive the requirement for a 25 bituminous surface and require a sand and gravel base 26 of not less than twelve (12) inches in depth of which 27 the top six (6) inches in depth shall at a minimum be 28 road grade gravel. 29 The minimum radius of Cul-de-sacs shall be fifty (50) 4. 30 feet. 31 C. A private road serving or to serve more than twelve (12) 32 lots, parcels or site condominium units shall meet design

Article VI

specifications and road construction standards as outlined

in the Charlevoix County Road Commission Requirements and

Specifications for Plat Development and Road Construction.

Section 6.01-Application Procedures

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A. Before construction of a private road shall begin, approval must be given by the Evangeline Township Board or its designated agent.

- B. The applicant shall file an Application for Private Road Construction with the Evangeline Township Clerk or designated agent on a form to be provided and pay the appropriate fee as shall be specified by a resolution of the Township Board.
 - C. The applicant shall provide proof of ownership and/or written consent of such owner and the names and addresses of those concerned with the application.
- D. The applicant shall provide copies of all other permits or waivers of permits which may be required by County, State or Federal statute.
- The applicant shall provide six (6) copies each of the proposed road maintenance agreement, easement agreement and deed restrictions.
- 15 F. Where a private road shall serve less than 5 lots, parcels 16 or condominium units the applicant shall submit a site plan 17 containing the following information:
 - 1. Identification and description:
 - a. Proposed name of development.
 - b. Parcel identification number and/or legal description.
 - Names and addresses of proprietor, owner proprietor, and planner, design engineer, landscape architect or surveyor, if any.
 - d. Scale of drawings.
 - e. Date of preparation.
 - g. North arrow.
 - 2. Existing conditions:

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- a. A location map showing the general relationship of the proposed property division to the surrounding area within 1/4 mile, in a scale not less than 1" = 2,000'.
- b. Proposed lines of division and dimensions.
- c. Zoning classification.
- d. Location of existing buildings and structures.

1 Locations, widths, and names of existing or prior e. easements of record, public and/or private if any. Location of existing sanitary sewers, water mains, f. storm drains, and other underground facilities, if h. Location of significant natural features such as 7 lakes, streams, wetlands, slopes over 20%, stands 8 scenic views, and other significant geologic features. 10 3. Proposed conditions: 11 Proposed locations of easements for open space. a. 12 pathways, utilities and other activities. 13 Layout of the private road, indicating easement b. 14 width and connections to adjoining 15 rights-of-way. 16 Indication of possible future divisions. This is c. 17 for information purposes only; approval of the 18 plan does not give approval of future divisions. 19 ď. Locations of proposed lots, parcels or condominium 20 units as well as proposed building envelopes. **Z**1 Location of private road identification signs. e. 22 f. Other items may be required by the Township Board 23 or its designated agent. 24 G. In cases where the private road shall serve five (5) or more 25 parcels or dwelling units, a site plan shall be prepared by a registered land surveyor, civil engineer or landscape 26 27 architect in a scale of at least 1" = 100'. In addition to 28 the items listed above the site plans shall include the 29 following information: 30 1. Topographic map of the site drawn at contour intervals 31 of two feet. 32 2. Road construction plans prepared by a civil engineer. 33 These plans shall include the following information: 34 Cover sheet. a. õ b. Typical cross sections and cut and fill sections

moved.

as well as estimated quantities of earth to be

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1 c. Paving and drainage plan. d. Sanitary sewer and water main plan (if any). e Utilities plan (gas, electric and telephone). f. Intersection alignment including sight distance for intersection of private and public roads. Method of constructing "Dead End" streets. g. 8 Road plan and profile elevations and grades. h. 9 Soil borings 500 feet maximum spacing and 10 feet i. 10 minimum depth below proposed grade or existing 11 ground whichever is deeper (to be shown on plan 12 - and profile sheets). 13 Area to be cleared or disturbed during grading and j. 14 installation of improvements. This area shall be 15 shaded or cross-hatched. 16 k. Disposition of unsuitable materials removed for 17 road construction. 18 1. Other items may be required by the Township Board 19 or its designated agent. `-∠0 Section 6.02 - Application Review and Approval 21 Α. The Township Board or its designated agent shall review and 22 approve, review and approve with conditions, or review and 23 deny all applications submitted under this Ordinance. Each 24 application and site plan shall comply with the provisions 25 of this Ordinance. Each action taken with reference to 26 application and site plan review shall be duly recorded in 27 the minutes of the Township Board or its designated agent. 28 All applications shall be acted upon within sixty (60) days В. 29 of receipt by the Township Board or its designated agent of 30 a complete application meeting the requirements above. 31 The Township Board or its designated agent will consider all C. 32 applications at a scheduled meeting. 33 Upon determination of the Township Board or its 1. 34 designated agent that an application is in compliance `5 with this Ordinance and other plans or regulations, it

application may also be approved subject to such

conditions as are necessary to ensure compliance with

shall be so indicated on the application.

this Ordinance.

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- 2. Upon determination of the Township Board or its designated agent that an application is in compliance, except for minor revisions, said changes shall be so indicated. When these changes have been adequately addressed, the petitioner shall resubmit the application to the Township Board or its designated agent for application approval.
- 3. If extensive revisions to the application are necessary to meet provisions of this Ordinance or other applicable regulations, the application shall be disapproved and the applicant requested to prepare an alternate application. In this case, "DISAPPROVED" shall be written on the plan and reasons for disapproval indicated in the resolution of the Township Board or its designated agent's in writing.
- D. Before application approval the Township Board or its designated agent may require a cash bond or other bond assurances of performance in the amount to be determined by the Township, to guarantee that the clearing and grading will conform with the approved plans.

- E. When an application is reviewed and approved or disapproved by the Township Board or its designated agent and all steps completed, three (3) copies of the application will be marked by the Township Board or its designated agent for the following distribution:
 - One (1) copy returned to the applicant signed by the Supervisor of the Township Board or its designated agent including any conditions of approval.
 - One (1) copy forwarded to the Township Clerk or designated agent for filing.
 - 3. One (1) copy forwarded to the Zoning Administrator.
- F. Upon application approval by the Township Board or its designated agent, construction may commence.
 - G. Failure to initiate construction of an approved application within 365 days of approval shall require the applicant to appear before the Township Board or its designated agent and demonstrate why the approval should not be revoked. After a hearing the Township Board or its designated agent may revoke a previously approved application for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

- 1. An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency.
- 2. Regulations contained in this Ordinance have been changed and the previously approved application does not comply with them.
- 3. A change in Township, County, State or Federal statutes has occurred affecting the previously approved application.
- 4. Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.
- 15 H. Thirty (30) days prior to expiration of an approved
 16 application, an applicant may make application for a one
 17 year extension of the application at no fee. The applicant
 18 shall explain in writing why the development has not
 19 proceeded, what the current time frame is and why an
 20 extension should be granted.
- 21 I. Revocation of an approved application shall be communicated in writing by Certified Mail to the applicant.
- J. Any subsequent resubmittal shall be processed as a new request with new fees.

Article VII

Section 7.01-Road Construction and Certification

- A. Prior to the start of any clearing or grading, the developer shall, if required, deposit a cash bond or other bond assurances of performance to guarantee that the clearing and grading will conform with the approved plans.
- 31 B. All private roads shall be inspected by the Township Zoning
 32 Administrator during the construction of the road. The
 33 applicant shall give the Township Zoning Administrator three
 34 (3) days notice before construction shall commence.
 - C. In cases where the private road was designed by a civil engineer, prior to the Township Board or its designated agent certifying that the private road is complete, the engineer shall submit to the Zoning Administrator as built plans and a certification that the private road as constructed meets all provisions of this Ordinance.

D. In cases where the private road was not designed by a civil engineer, prior to the Township Board or its designated agent certifying that the private road is complete, the applicant shall submit to the Zoning Administrator as built plans and a certification that the private road as constructed meets all provisions of this Ordinance.

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- E. Upon receipt of as built plans and certification that the road meets all provisions of this ordinance, the Township Zoning Administrator shall submit his/her recommendation to the Township Board or its designated agent that it certify the road as complete.
- F. If there is any deviation from the plans, the Township Zoning Administrator shall report the deviation and reason for same to the Township Board or its designated agent. The Township Zoning Administrator has the right to reject the work and issue a stop work order if there is evidence that the road is not being constructed according to approved plans or if a contractor or contractor's equipment creates any unnecessary disturbance beyond the limits as shown on the approved plans.

Section 7.02-Certification of Completion of Private Road

- A. Before the Township Board or its designated agent may certify that a private road is complete it must have the following:
 - 1. Recommendation from the Township Zoning Administrator that the private road be certified complete.
 - 2. The applicant shall provide the following if required in Section 5.01 of this Ordinance:
 - a. Two (2) copies of recorded road maintenance agreement.
 - b. Two (2) copies of recorded deed restrictions and easements.
- B. If there is compliance with the above the Township Board or its designated agent shall certify that the private road is complete.

Article VIII

Section 8.01-Permits Not To be Issued

A. No Zoning Permit shall be issued by the Zoning Administrator for the use of any legally created lot, parcel or site condominium unit served or to be served by a private road

until that portion of such road servicing said lot, parcel or site condominium unit is certified as complete as per provisions of this Ordinance.

Section 8.02-Fees

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A. Fees to be charged pursuant to this Ordinance shall be as set, or from time to time amended by a Resolution of the Township Board.

Section 8.03-Severability

A. This Ordinance and each of the various parts, subsections, sentences, phrases and clauses hereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase, or clause is determined to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby and shall remain in full force and effect.

Section 8.04-Penalties

A. Any person, firm, association, partnership, corporation, or combination who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof may be imprisoned for a period not exceeding ninety (90) days or fined a sum not to exceed \$500.00 or both, in the discretion of the Court, together with the costs of such prosecution. Each day not in conformance of this Ordinance shall be considered a separate violation.

Article IX

Section 9.01-Variances

A. The Evangeline Township Planning Commission shall have the power to authorize upon application, in specific cases, a variance from the terms of this Ordinance contained in Sections 5.01 or 5.02 of this Ordinance. Consideration by the Planning Commission shall be based upon the standards for consideration of a variance set forth in the Evangeline Township Zoning Ordinance, as amended.

Article X

Section 10.01-Effective Date

A. This Ordinance shall become effective thirty (30) days after its publication in the Petoskey News-Review.

RECORD OF ORDINANCES

Comprehensive copy of Forning Ordinance, encomprating anendments

Signed ______Supervisor Clerk

THE J. H. SHULTS CO., MANISTEE