

## ORDINANCE NUMBER 62

The Village Board of the Village of Marquette in session duly begun on the 9 day of September, 2013, does hereby ordain as follows:

Section One:

### SEX OFFENDER CHILD SAFETY ZONES

**1-1 Purpose.** This ordinance is a regulatory measure aimed at protecting the health and safety of children in Marquette from the risk that convicted sex offenders may re-offend in locations where children tend to congregate or be regularly present. The Village finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders re-enter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools, day care centers and other places children frequent. The Village finds and declares that in addition to schools, libraries and day care centers, children congregate or play at public parks.

**1-2 Definitions.** As used in this ordinance and unless the context otherwise requires:

A *sexually violent offense* shall have the meaning as set forth in Wis. Stats. §980.01(6) as amended from time to time.

A *crime against children* shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government having like elements necessary for conviction, respectively:

Wis. Stats. §940.225(1)	First Degree Sexual Assault
Wis. Stats. §940.225(2)	Second Degree Sexual Assault
Wis. Stats. §940.225(3)	Third Degree Sexual Assault
Wis. Stats. §940.22(2)	Sexual Exploitation by Therapist
Wis. Stats. §940.30	False Imprisonment - Victim was a minor and not the offender's child
Wis. Stats. §940.31	Kidnapping - Victim was a minor and not the offender's child
Wis. Stats. §944.01	Rape (prior statute)
Wis. Stats. §944.06	Incest (prior statute)
Wis. Stats. §944.10	Sexual Intercourse with a child (prior statute)
Wis. Stats. §944.11	Indecent behavior with a child (prior statute)
Wis. Stats. §944.12	Enticing child for immoral purposes (prior statute)
Wis. Stats. §948.02(1)	First Degree Sexual Assault of a child
Wis. Stats. §948.02(2)	Second Degree Sexual Assault of a child
Wis. Stats. §948.025	Engaging in repeated acts of sexual assault of the same child
Wis. Stats. §948.05	Sexual exploitation of a child
Wis. Stats. §948.055	Causing a child to view or listen to sexual activity
Wis. Stats. §948.06	Incest with a child
Wis. Stats. §948.07	Child enticement
Wis. Stats. §948.075	Use of a computer to facilitate a child sex crime
Wis. Stats. §948.08	Soliciting a child for prostitution
Wis. Stats. §948.095	Sexual assault of a student by school instructional staff
Wis. Stats. §948.11(2)(a)	or (am) Exposing child to harmful material - felony sections
Wis. Stats. §948.12	Possession of child pornography

Wis. Stats. §948.13	Convicted child sex offender working with children
Wis. Stats. §948.30	Abduction of another's child
Wis. Stats. §975.06	Sex crimes law commitment

*Person* means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a sexually violent offense and/or a crime against children, or otherwise required to register as a sex offender under Wis. Stats. §301.45.

*Residence* means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

**1-3 Child Safety Zones.** No person shall enter or be present upon, or be within 1000 feet of the closest point of, any real property upon which there exists any facility used for or which supports a use of:

- (1) A public park, parkway, parkland, park facility;
- (2) A public swimming pool;
- (3) A public library;
- (4) A Historical Museum;
- (5) Town Hall or Village Hall;
- (6) Post Office;
- (7) A recreational trail;
- (8) Resorts and Campgrounds;
- (9) A public playground;
- (10) A school for children;
- (11) Athletic fields used by children;
- (12) A movie theatre;
- (13) A day care center;
- (14) Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy or music school;
- (15) Aquatic facilities open to the public, including piers;
- (16) A church, synagogue, mosque, temple or other house of religious worship (collectively "church"); and
- (17) Any facility for children (which means a public or private school, a group home as defined in Wis. Stats. §48.02(7), a residential care center for children and youth as defined in Wis. Stats. §48.02(15d), a shelter care facility as defined in Wis. Stats. §48.02(17), a treatment foster home as defined in Wis. Stats. §48.02(6), a day care center licensed under Wis. Stats. §48.65, a day care program established under Wis. Stats. §120.13(14), a day care provider certified under Wis. Stats. §48.651, or a youth center as defined in Wis. Stats. §961.01(22)).

A map, as amended from time to time, depicting the locations of the real property supporting the above enumerated uses, and the 1000 foot restricted areas surrounding thereof, shall be kept on file in the Village Clerk's office for public inspection.

The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above-enumerated use(s).

**1-4 Child Safety Zones Exceptions.** A person does not commit a violation of Sec. 1-3 above and the enumerated uses may allow such person on the property supporting such use or within the 1000-foot restricted area surrounding thereof, if any of the following apply:



- (1) The property supporting an enumerated use under Sec. 1-3 also supports a church lawfully attended by a person as a congregation member and the following conditions apply:
  - a. Entrance and presence upon the property, or within the 1000 foot restricted area surrounding thereof, occurs only during hours of worship or other religious program/service as posted to the public; and
  - b. Written advance notice is made from the person to an individual in charge of the church and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the person; and
  - c. The person shall not participate in any religious education programs which include individuals under the age of 18.
- (2) The property supporting an enumerated use under Sec. 1-3 also supports a use lawfully attended by a person's natural or adopted child(ren), which child's use reasonably requires the attendance of the person as the child's parent upon the property or within the 1000-foot restricted area surrounding thereof, subject to the following conditions:
  - a. Entrance and presence upon the property, or within the 1000-foot restricted area surrounding thereof, occurs only during hours of activity related to the use as posted to the public; and
  - b. Written advance notice is made from the person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the person.
- (3) The property supporting an enumerated use under Sec. 1-3 also supports a polling location in a local, state or federal election, subject to the following conditions:
  - a. The person is eligible to vote;
  - b. The designated polling place for the person is an enumerated use; and
  - c. The person travels directly to and enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the person vacates the property, and the 1000-foot restricted area surrounding thereof, immediately after voting.
- (4) The property supporting an enumerated use under Sec. 1-3 also supports an elementary or secondary school lawfully attended by a person as a student, under which circumstances the person who is a student may enter upon that property, or within the 1000-foot restricted area surrounding thereof, supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.

- (5) The person is on the property which the person's residence is located and that property is located within the 1000-foot restricted area surrounding a property supporting an enumerated use under Sec. 1-3 only if the person's residence has continuously been on such property since prior to the adoption of this article.
- (6) The person is actually engaged in travel to or from the person's residence excepted under Sec. 1-3 only under the following conditions:
  - a. There is no other route upon a highway available to the person which avoids entering a restricted area under Sec. 1-3; and
  - b. The person does not stop, linger, loiter, wander, stroll or stand for a period of time or take any other action which would be inconsistent with the purpose of continuing the immediate pursuit of travel to or from the person's residence.
- (7) The person is on a highway while actually engaged in interstate travel, so long as the person does not stop, linger, loiter, wander, stroll or stand for a period of time or take any other action which would be inconsistent with the purpose of continuing the immediate pursuit of such interstate travel.
- (8) The presence of the person is necessitated by an emergency situation in which property or human life are in jeopardy, and the prompt summoning or rendering of aid is essential.
- (9) The person is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution or facility.
- (10) Under a permit granted by the Village Board upon recommendation from the Village Clerk or his or her designee. A permit shall only be issued upon a determination that the permitted activities of the person will not likely lead to a disruption of the stated purpose of this article. The Village Clerk, or his or her designee, shall establish an application process and permit form consistent with this purpose, which process and permit form shall be approved by the Village Board. The Village Clerk, or his or her designee, shall have the power to revoke or temporarily suspend a permit issued hereunder if, in his or her opinion, the activities of the permit holder are not in compliance with the terms and conditions of this article or the permit granted, or circumstances have changed from the date of initial permit issuance whereby the permitted activities will constitute an unreasonable safety hazard to the general public or will otherwise lead to a disruption of the stated purpose of this article. Further, any permit granted hereunder may be revoked or temporarily suspended by the Village Clerk, or his or her designee, if the permit holder commits a crime or violates any other Village ordinance as a result of or during the permitted activities hereunder. The decision of the Village Clerk, or his or her designee, to revoke or suspend a permit hereunder shall be final, subject only to review by the Village Board under Wis. Stats. Ch. 68.

**1-5 Child Safety Zone Violations.** Persons violating this ordinance shall be subject to the following:

- (1) Penalty. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, forfeit up to Five Hundred Dollars (\$500.00), together



with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, may be imprisoned in the County Jail until such forfeiture and costs are paid.

(2) Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this ordinance shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this ordinance including bringing an action to have the person removed from that persons residence so the person complies with this ordinance.

(3) Other Remedies.

a. The Village shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.

b. Execution against defendant's property. Whenever any person fails to pay a forfeiture and costs of prosecution upon the order of any court for violation of this ordinance, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execute on against the property of the defendant for said forfeiture and costs.

Section Two: This ordinance shall take effect from and after its passage and publication as required by law.

Roll Call Ayes 2 Nays 0 Absent 1 Abstain 0

Introduced by:

Keith M. Zelnick

Introduced by:

\_\_\_\_\_

APPROVED this 9 day of September, 2013.

VILLAGE OF MARQUETTE

David W. Zeh  
David W. Zeh, Village President

ATTEST:

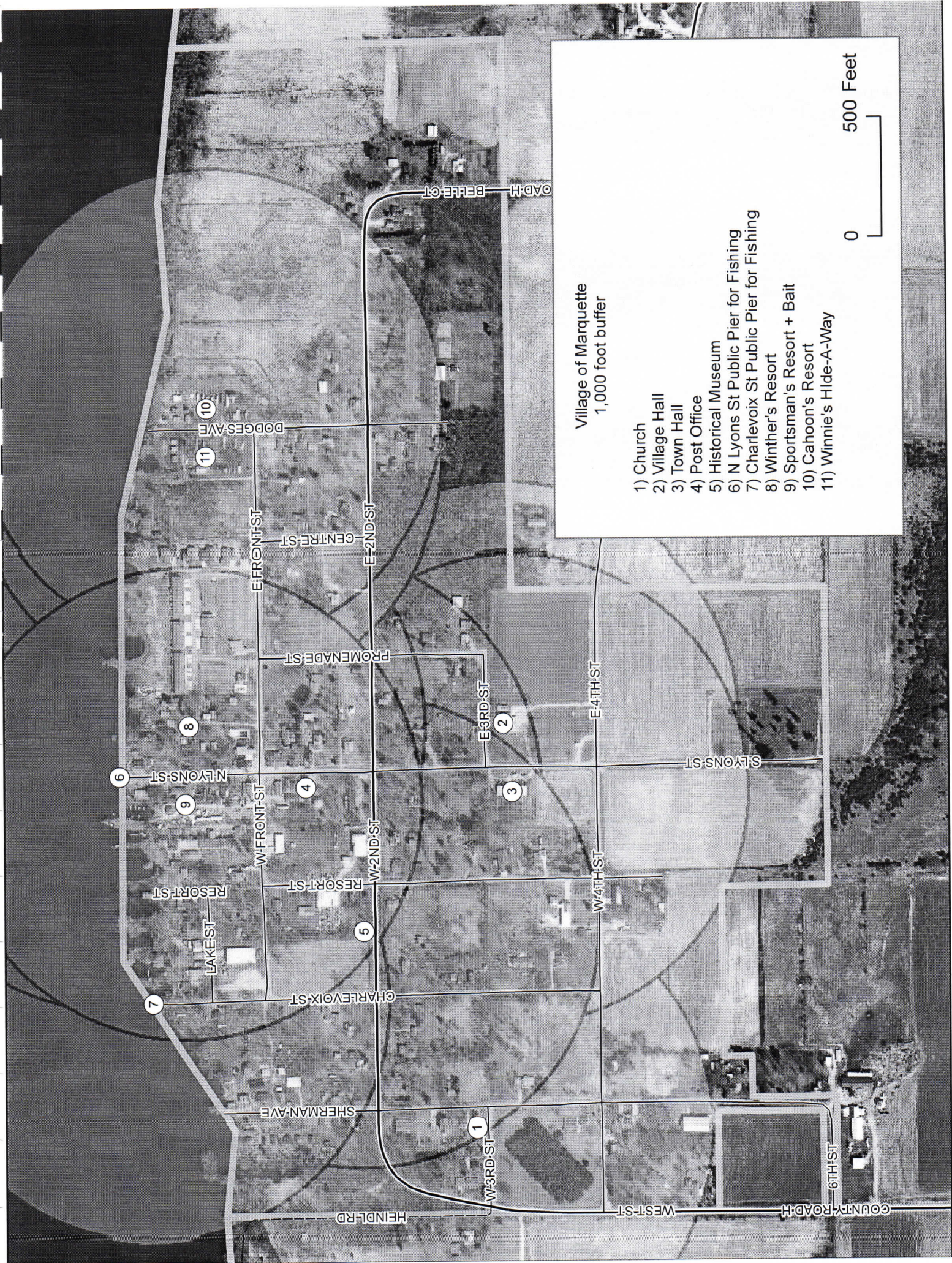
Deborah J. Flagel  
DEBORAH J. FLAGEL, Village Clerk

APPROVED AS TO FORM:

Daniel D. Sondalle  
DANIEL D. SONDALLE, Village Attorney

Published: \_\_\_\_\_





Village of Marquette  
1,000 foot buffer

- 1) Church
- 2) Village Hall
- 3) Town Hall
- 4) Post Office
- 5) Historical Museum
- 6) N Lyons St Public Pier for Fishing
- 7) Charlevoix St Public Pier for Fishing
- 8) Winther's Resort
- 9) Sportsman's Resort + Bait
- 10) Cahoon's Resort
- 11) Winnie's Hide-A-Way

0 500 Feet



PERMIT APPLICATION FOR EXCEPTION TO THE VILLAGE OF MARQUETTE - SEX  
OFFENDER CHILD SAFETY ZONE ORDINANCE

DATE: \_\_\_\_\_

NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

CURRENT ADDRESS: \_\_\_\_\_

EMPLOYER: \_\_\_\_\_

ADDRESS OF EMPLOYER: \_\_\_\_\_

HIGHEST LEVEL OF EDUCATION COMPLETED: \_\_\_\_\_

AGES & RELATIONSHIPS OF THOSE WHO CURRENTLY LIVE WITH YOU (do not list names):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LOCATION(S) THAT YOU WISH TO ENTER UPON OR BE PRESENT IN MARQUETTE:

\_\_\_\_\_  
\_\_\_\_\_

PERMIT QUESTIONNAIRE FOR EXCEPTION TO THE VILLAGE OF MARQUETTE'S CHILD  
SAFETY ZONE: Please answer the following questions and, if needed, attach additional pages to this  
application.

1. In your own words, describe the sexual offense(s), including the date(s) of conviction and details of the incident (without naming the victim): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Describe in detail your reason(s) for requesting an exception to the Child Safety Zone and the location(s) where you intend to enter or be present upon: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Provide the date(s) and time(s) you intend to be at the location described in question #2: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Are you currently, or will you be upon release from incarceration, under the supervision of the Department of Corrections: \_\_\_\_\_. Date of Release: \_\_\_\_\_
5. If so, provide the name and contact information of your agent: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Describe how you believe your sexual crime affected the victim in your case (without naming the victim): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Provide a summary of your treatment history. This portion of your application will be held in closed session and not released to the public: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Besides the treatment outlined in question #7, what other assurances can you provide that you will not re-offend sexually in the future? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Have you secured permission from the individual in charge of the property/facility as defined under the Sex Offender Child Safety Zone Ordinance: \_\_\_\_\_
10. If you are currently on probation or parole through the Department of Corrections, have you secured permission from your Supervising Agent to enter upon property or facilities as defined under the Sex Offender Child Safety Zone Ordinance: \_\_\_\_\_
11. It is suggested that you provide names of individuals that would give voluntarily written statements on your behalf. Submit the written statements with this application.

AUTHORIZATION AND CERTIFICATION: Please read and initial each of the following statements.  
Your initials and signature verify that you have read, understand and agree to abide by these statements.

I hereby certify that all statements made on, or in connection with, my application are true, complete and correct to the best of my knowledge and belief: \_\_\_\_\_ Initials

I understand and agree that any misstatements or omissions of material fact subject me to denial of this application: \_\_\_\_\_ Initials

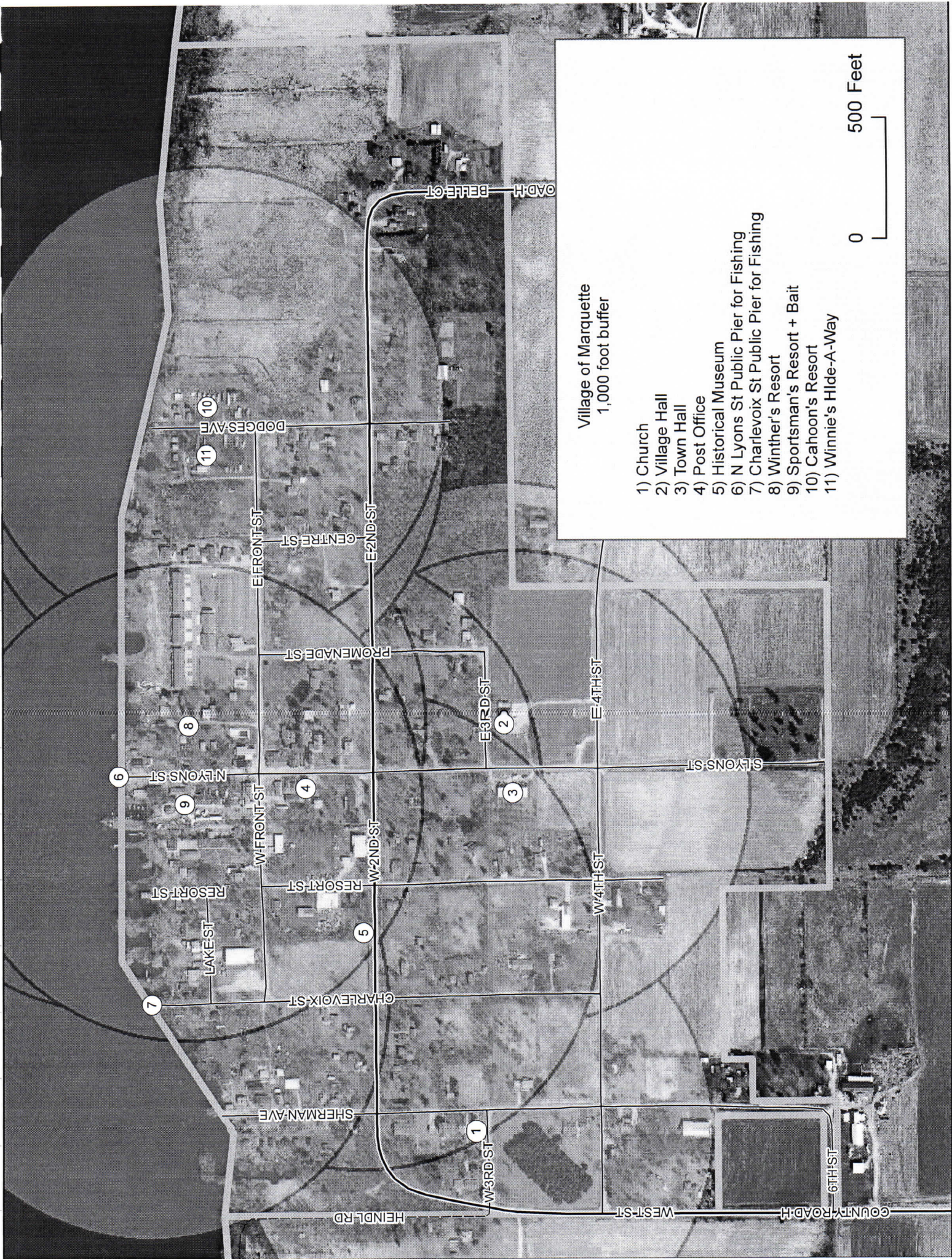
I authorize the Village of Marquette, its officers, agents and employees to conduct a background check (including criminal) prior to making a decision regarding this appeal. I release and hold harmless the Village of Marquette, their officers, agents and employees, and the person(s) providing the information, from any liability related to the performance or result of this check: \_\_\_\_\_ Initials

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please return the completed application to: Village of Marquette, P.O. Box 61, Marquette, Wisconsin, 53947. After receipt of this completed application you will be notified of the date and time of your hearing before the Village of Marquette Village Board.

Signature of Receipt: \_\_\_\_\_ Date: \_\_\_\_\_





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