

## **CHAPTER 16 SITE CONDOMINIUMS**

### **Section 16.01. Purpose.**

- (a) Tracts of land that are developed and sold as site condominium developments and condominium developments are not subject to regulation under the Michigan Land Division Act. The Township determines that it is in the best interest of public health, safety, and welfare to regulate site condominium developments and condominium developments to assure that the developments will not adversely affect the occupants thereof, or other properties in the Township.
- (b) This Chapter covers both site condominiums and condominiums, whether for residential use or non-residential use. The references herein to site condominiums shall also include condominiums; accordingly, the requirements of this Chapter for submission of condominium plans and for Township consideration and approval thereof shall apply to condominium developments, as well as to site condominium developments.

**Section 16.02. Commencement of Construction, Issuance of Permits.** No construction, grading, tree removal, soil stripping or other site improvements or changes shall be commenced for a site condominium project until:

- (a) A final site condominium project plan has been approved by the Township Board.
- (b) All conditions to commencement of construction imposed by the Township Board have been met.
- (c) All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.

**Section 16.03. Definitions.** For purposes of this article, the following words and phases are defined as follows:

- (a) "Building envelope" means an area of land within which a condominium unit may be constructed and used, and which complies with the minimum lot area and the minimum lot width requirement of the zone district in which the condominium unit is located.
- (b) "Condominium Act" means Public Act 59 of 1978, as amended.
- (c) "Condominium Unit" means a condominium established in compliance with the Condominium Act which consists of a volume of surface or subsurface, vacant air space, designed and intended for separate ownership and use as described in the condominium master deed. For purposes of determining compliance with the applicable requirements of the zoning ordinance (including, without limitation, height, area, yard, and density requirements) and with other applicable laws, ordinances and regulations, a condominium unit shall be deemed to be a dwelling,

if a residential use, or shall be deemed to be a building or portion thereof, if for an approved non-residential use.

- (1) In the case of an attached condominium, the minimum requirements of this ordinance, including without limitation, height, area, yard, and density requirements, shall be applied with respect to the building in which the attached condominium is located; provided, however, that a building envelope surrounding the attached condominium unit shall be established and described, so as to comply with the minimum area, yard, and density requirements of the zone district in which the condominium is located. The building envelope surrounding a two-unit condominium building must comply with the minimum lot area requirement, the minimum lot width requirement and the minimum building setback requirements for duplexes in the zone district in which the two-unit condominium is located. The building envelope for a building that contains more than two attached condominium units must comply with the minimum lot area requirement, the minimum lot width requirement and the minimum building setback requirements for multi-family dwelling units in the zone district in which the building is located.
  - (2) In the case of a detached condominium, the applicable provisions of this ordinance, including without limitation, height, area, yard, and density requirements, shall be applied with respect to the building comprising the detached condominium; provided, however, that a building envelope or other equivalent space surrounding the detached condominium unit shall be established, so as to comply with the minimum area, yard, and density requirements of the zone district in which the condominium is located.
  - (3) For the purposes of this chapter, the term "building site" shall refer to the area within a building envelope or other equivalent space surrounding an attached or detached condominium unit that has been established, as required, so as to comply with the minimum area, yard, and density requirements of the zone district in which the attached or detached condominium is located.
- (d) "Exempt Change" means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this chapter. Exempt changes shall be limited to the following:
- (1) A change in the name of the project; in the name of a street within the project; or in the name of the developer of the project;
  - (2) A change in the voting rights of co-owners or mortgagees;
  - (3) Any other change in the site condominium project which, as determined by the Planning Commission, does not constitute a major or minor change

or will not otherwise change the site configuration, design, layout, topography or any other aspect of a project which is subject to regulation under the Zoning Ordinance.

- (e) "Limited common element" means an area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium project for the exclusive use of the owner of the site condominium unit.
- (f) "Major change" means a change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any change that could result in:
  - (1) An increase of 20 percent or more in the number of site condominium units;
  - (2) A reduction of 5 percent or more in the area of the building site for any site condominium unit;
  - (3) A reduction of 5 percent or more in the total combined area of the general common elements of the site condominium project;
  - (4) A reduction of 5 percent or more in the total combined area of all limited common elements of the site condominium project; or
  - (5) Any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this Zoning Ordinance, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Planning Commission to constitute a major change to the site condominium project.
- (g) "Minor change" means a change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any change that will result in:
  - (1) An increase of less than 20 percent in the number of site condominium units or a decrease in the number of site condominium units;
  - (2) A reduction of less than 5 percent in the area of the building site for any site condominium unit;
  - (3) A reduction of less than 5 percent in the total combined area of the general common elements of the site condominium project;
  - (4) A reduction of less than 5 percent in the total combined area of all limited common elements of the site condominium project; or

- (5) Any other minor variation in the site configuration, design, layout, topography or other aspect of the project which is subject to regulation under this Zoning Ordinance, and which, as determined by the Planning Commission, does not constitute a major change.
- (h) "Site condominium project" means a plan or project consisting of not less than two site condominium units established in compliance with the Condominium Act.
- (i) "Site condominium project plan" means the plans, drawings and information prepared for a site condominium project as required by Section 66 of the Condominium Act and as required by this chapter for review of the project by the Planning Commission and the Township Board.
- (j) "Site condominium unit" means a condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of surface or subsurface vacant air space, designed and intended for separate ownership and use as described in the site condominium master deed, and within which a building or other improvements may be constructed by the condominium unit owner. For purposes of determining compliance with the applicable requirements of the zoning ordinance (including, without limitation, height, area, yard, and density requirements) and with other applicable laws, ordinances and regulations, a site condominium unit shall be considered to be the equivalent of a "lot."
- (k) Except as otherwise provided by this chapter, words or phrases shall have the meanings as defined in the Condominium Act.

**Section 16.04. Application for Site Condominium Approval.** An application for site condominium approval shall include the following information:

- (a) A condominium project plan which includes the documents and information required by Section 66 of the Condominium Act, and which includes the following information to the extent not included in such plans:
  - (1) The information required for site plan review by Section 17.03 of this Ordinance.
  - (2) Layout and dimensions of each site condominium unit, and the building envelope for such unit.
  - (3) Written approval of the proposed design and location of the entrance to the site condominium from the Montcalm County Road Commission or Michigan Department of Transportation.
  - (4) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.



- (5) A storm drainage and a storm water management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
- (6) A utility plan showing all water and sewer lines and easements to be granted to the appropriate municipality or public utility for installation, repair and maintenance of all utilities.
- (7) A narrative describing the overall objectives of the proposed site condominium project.
- (8) A narrative describing the proposed method of providing potable water supply, waste disposal facilities and public and private utilities.
- (9) A street construction, paving and maintenance plan for all private streets within the proposed condominium project.

**Section 16.05. Review of Preliminary Plans by the Planning Commission.**

- (a) Site condominium project plan review shall be commenced by filing with the Township Clerk 12 copies of a preliminary site condominium project plan which complies with Section 16.04, together with an application fee in accordance with the fee schedule established by resolution of the Township Board.
- (b) The Township Clerk shall forward the copies of the preliminary plan to the zoning Administrator who shall review the preliminary plan to determine its completeness and to provide any comments to the Planning Commission regarding the Plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward it to the Planning Commission on completion of review, together with any comments from the Zoning Administrator.
- (c) The Planning Commission shall review the preliminary site condominium project plan in accordance with the standards and requirements of this chapter.
- (d) After reviewing the preliminary site condominium project plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan. The Planning commission shall provide a copy of its written recommendations to the applicant and to the Township Board.

**Section 16.06. Review and Approval of Final Plans by Township Board.**

- (a) After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the Township Clerk a minimum of 12 copies of

a final site condominium development plan which complies with the requirements of this Section and of Section 16.04. The Township Clerk shall forward the copies of the final plan to the Zoning Administrator who shall review the final plan to determine its completeness and to provide any comments to the Township Board regarding the plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward it to the Township Board on completion of review and comments by the Zoning Administrator.

- (b) The final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission. Changes made to the plan other than those necessary to incorporate the recommendations of the Planning Commissions shall be reviewed by the Planning Commission as provided by this chapter, prior to approval of the plan by the Township Board.
- (c) After receiving the Planning Commission's recommendations on the preliminary plan and a final site condominium development plan from the applicant, the Township Board shall proceed to review and may approve, deny or approve with conditions, the plan in accordance with the standards provided by Section 16.07 and other applicable procedures, standards and requirements provided by this chapter.
- (d) As a condition of approval of a final site condominium project plan:
  - (1) The Township Board shall require that the plan be submitted to the Montcalm County Health Department, Montcalm County Road Commission, Montcalm County Drain Commissioner, Michigan Department of Natural Resources, Michigan Department of Public Health, Michigan Department of Environmental Quality, and other appropriate state and county review and enforcement agencies ("the Agencies") having direct approval or permitting authority over any aspect of the proposed site condominium project. Unless a different time limit for completion of review by the Agencies has been established by law or regulation, the review by the Agencies must be completed within 90 days after submission of an administratively complete final site condominium project plan. If no response is received within the applicable time period for review, the approval of the Agency or Agencies shall be presumed.

- (2) The Township may impose additional reasonable conditions of approval as provided by the site plan review chapter and any other provisions of this Ordinance, any other Township ordinance, state law or regulation, or any other applicable law or regulation.

**Section 16.07. Standards for Approval.** To receive approval, a site condominium project plan shall satisfy the following requirements:

- (a) The plan shall satisfy the standards and requirements for site plan approval in Chapter 17 of this Ordinance.
- (b) The proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, shall comply with all requirements of the Condominium Act or other applicable laws, ordinances or regulations. The Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, Township Planner or other appropriate persons shall be consulted as necessary to make this determination.
- (c) Each site condominium unit shall comply with all applicable provisions of this Ordinance, including minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height.
- (d) If a site condominium project is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the Montcalm County Road Commission.
- (e) Private streets may be permitted to provide access to and throughout a site condominium:
  - (1) All private streets shall comply with Section 4.25 of this Ordinance.
  - (2) Provisions in the Master Deed and Bylaws shall obligate the developer and/or owner's association to assure that all the private streets are regularly maintained, repaired and snowplowed so as to assure that they are safe for travel at all times. The Master Deed and/or Bylaws shall also include a provision indemnifying and holding the Township harmless from any and all claims for personal injury and for property damage arising out of the failure to properly construct, maintain, repair and replace the private streets.
- (f) The site condominium project shall be connected to public water and sanitary sewer facilities, if available according to Township Ordinance. If public water and sanitary sewer facilities are not available, the site condominium project shall either be served by a private central system (designed for connection to a public system when and if a public system is made available), or shall have a well, septic tank, and drain field located within the site condominium unit. Water and

sanitary sewer facilities shall be approved by the Montcalm County Department of Health and the Township in accordance with applicable standards.

**Section 16.08. Construction in Compliance with Approved Plan.** No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a site condominium project except in compliance with a final site condominium project plan as approved by the Township Board, including any conditions of approval.

**Section 16.09. Completion of Improvements.** No building or occupancy permit for a site condominium unit in an approved site condominium shall be issued until construction of all required improvements has been completed and approved by the Township, or security for completion of such improvements has been provided.

**Section 16.10. Expandable or Convertible Condominium Projects.** Approval of a final site condominium project plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Township Board in compliance with the procedures, standards and requirements of this chapter.

**Section 16.11. Revisions of Approved Final Site Condominium Project Plan.**

- (a) Changes to a development for which a site condominium plan has been approved are subject to this section.
- (b) Any change which constitutes an exempt change shall not be subject to review by the Township under this chapter, but a copy of the exempt changes shall be filed with the Township Clerk. "Exempt change" means:
  - (1) A change in the name of the development; in the name of a street within the development; or in the name of the developer.
  - (2) A change in the voting rights of co-owners or mortgagees.
  - (3) Any other change in the site condominium development which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a development which is subject to regulation under the Zoning Ordinance.
- (c) Any change which constitutes a minor change shall be reviewed and approved by the Zoning Administrator, but in the discretion of the Administrator, any such minor change may be reviewed and approved by the Planning Commission. "Minor change" means a minor change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that will result in: