

Proposed Zoning Ordinance Amendment No. 78

Article 28

(revised in its entirety)

ARTICLE XXVIII

CONDOMINIUM DEVELOPMENT REGULATIONS

28.10 INTENT

The intent of this Article is to provide procedures and standards for the review and approval or denial of condominium developments implemented under the provisions of the Condominium Act (Act 59 of 1978, as amended) and to insure that such developments are consistent and compatible with conventional platted subdivisions as provided for through the Land Division Act (P.A 288 of 1967, as amended), and promote the orderly development of adjacent areas. These regulations are enacted by authority of the Condominium Act, the Michigan Zoning Enabling Act, and this Ordinance, as amended, whereby all developments utilizing any form of condominium development shall be approved or disapproved by the Township.

28.11 APPLICABILITY

A. General Provisions

Prior to recording of the master deed, required by Section 72 of the Condominium Act, the condominium development shall undergo a site plan review and approval by the Township in accordance with the provisions of this section. Approval under this section shall be required as a condition to the right to construct, expand or amend a condominium development in the Township.

B. Condominium Conversions – All individuals proposing a Condominium Conversion shall present the township with two copies of all required documents as indicated in the Condominium Act (Act 59 of 1978, as amended). Said review shall be conducted by the township Zoning Administrator and township attorney for compliance with the Condominium Act (Act 59 of 1978, as amended). Applicant shall be provided with a written response of approval or specific reason for failure to approve within 60 days of submission.

C. Plat Approval

There shall be no requirement for plat approval for a condominium development under the Township Subdivision Control Ordinance.

D. Planned Developments

The procedural provisions of this section shall not apply to condominium developments which are reviewed and approved through the Special Use Permit – Planned Unit Development procedure, **Article 31 of this Ordinance**.

28.12 CONSULTATION

In determining whether to approve a condominium development plan, the Township may, as the Zoning Administrator and Planning Commission deem necessary, charge for consultation with the Township Attorney and other experts, regarding the adequacy of the master deed, deed restrictions, utility systems, and streets, site layout and design, and compliance with all requirements of the Condominium Act and this Ordinance. All reasonable costs related to said consultation, as established by the Township, shall be placed in escrow with the Township by the applicant prior to review in addition to the standard nonrefundable application fee.

At any point during the review process, the Township may require that the applicant place additional funds with the Township to cover consultations deemed necessary to complete the review process. If consultation funds are not provided promptly, all reviews shall cease until funds are made available to continue. Any unused consultation funds remaining after the Township completes its review shall be returned to the applicant with a line item record of distributions.

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28.13 GENERAL REQUIREMENTS

A. Compliance with Federal, State and Local Laws

All condominium developments shall comply with all applicable Federal, State and local laws and ordinances. No condominium documents shall conflict with the standards of this Ordinance.

B. Fee Required

Before the Township reviews a condominium development plan, the applicant shall submit to the Township a nonrefundable application fee **or preliminary review fee** as established by resolution of the Board to cover the Township's cost of **internal** review. Such application fee shall be independent of any required consultation costs as described in Section 28.12.

C. Information Required

All condominium development plans shall include the information required by **Section 66 of the Condominium Act** and the material required in **Section 25.11 (F)**. A person, firm, or corporation intending to develop a condominium development shall provide the following information:

1. Size and Scale - Plans may be on paper and shall not be less than 24 inches by 36 inches, at a scale of at least 1 inch to 200 feet showing the date and north arrow.
2. The name of the proposed condominium development.
3. The name, address, telephone number of:
 - a. All persons, firms, or corporations with an ownership interest in the land on which the condominium development will be located and a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee)
 - b. All engineers, attorneys, architects, landscape architects, or registered land surveyors associated with the condominium development.
 - c. The individual or entity applying for the condominium development.
4. The legal description of the land on which the condominium development will be developed together with any expansion plans and appropriate tax identification numbers.
5. The acreage of the land on which the condominium development will be developed.
6. The land use and existing zoning of the proposed condominium development.
7. The following information for subject parcel and all parcels within 300 feet of the proposed site:
 - a. Name and address of the owners
 - b. The zoning classifications
 - c. Existing structures or significant land marks
8. Location, type, dimensions and proposed use of all existing structures.
9. A location map showing the relationship of the proposed plan to the surrounding area.
10. Statement of intended use(s). Such as, residential single-family, residential multi-family, commercial, industrial, etc. and the number of acres of each type of land use proposed.
11. Condominium lot lines and the total number of condominium units to be developed on the subject parcel.
12. Description of water system to be provided.
13. Description of sanitary waste disposal system to be provided.
14. Right-of-way easements, showing location, width, and purpose.
15. Existing topographic elevations at two (2) foot intervals, proposed grades and direction of drainage flows.

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16. Location and types of all significant existing vegetation, water courses and bodies, flood plains and water retention areas, wetlands, and soil types.
17. Any additional information required during site plan review

D. Utility Easements

The condominium development plan shall include all necessary easements for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits, and other installations of a similar character providing public utilities.

E. Performance Guarantees

As a condition of approval of the condominium development plan by the Township, a performance guarantee may be required to ensure construction of required improvements and the completion of filing requirements before land use permits are issued. Upon fulfillment of all requirements and filings, the applicant shall apply to the Township for release of performance guarantees. Performance guarantees shall comply with the requirements in **Section 25.16** of this Ordinance.

28.14 MOBILE HOME CONDOMINIUM DEVELOPMENTS

Mobile home condominium developments shall conform to the requirements of this Ordinance, in accordance with the Condominium Act and other applicable Local, State laws, ordinances and regulations. Such developments shall be located only in a zoning district that provides for mobile homes. The review and approval shall be processed in accordance with Section 28.15 Review Procedures.

28.15 STANDARDS AND DESIGN FOR CONDOMINIUM DEVELOPMENTS

A. Condominium Lots

The Condominium Development Plan shall indicate specific parcel dimensions allocated to each condominium dwelling unit. For the purpose of this section and to assure compliance with the provisions herein, these parcels shall be referred to as “condominium lots”.

B. Condominium Development Layout and Design

The description, size, location and arrangement of the site condominium lots shall conform to the requirements of this Ordinance. The design of a condominium development shall be subject to the following requirements. Should there be unusual topographic or other natural feature constraints, these standards may be modified to achieve greater or lesser conformance in accordance with the judgement of the township Planning Commission.

1. Each condominium lot in a site shall be considered a single lot and shall comply with the zoning district in which it is located. The area and setback requirements of a dwelling unit or structures are subject to the zoning district in which it is located.
2. Each condominium dwelling unit shall be located within a condominium lot. In a condominium development containing single-family detached dwellings units, not more than one (1) dwelling unit shall be located on a condominium lot.
3. The condominium lots size and required setbacks shall be measured from the designated front, rear and side condominium lot lines.
4. There shall be a proper relationship between existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exist driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township or the County Road Commission.

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5. Existing natural features which add value to a residential development and enhance the attractiveness of the community shall be retained, insofar as possible, in the design of the subdivision.
6. Lands subject to flooding or otherwise deemed by the Township to be uninhabitable shall not be used for uses that may increase the danger to health, life, or property or increase the flood hazard. Such land within a condominium development may be set aside for other uses, such as parks or other open space.
7. Easements shall provide for utilities when necessary.
8. All condominium development units shall be accessible to emergency vehicles.
9. Common open space provided shall remain open for recreational and conservational purposes, and recorded as part of the master deed.
10. Condominium development units having water frontage shall meet the requirements of Article 14 Easement to Waterfront.
11. A plan for erosion control and storm water discharge must be approved by the appropriate public agency.
12. All condominium developments shall obtain approval from all applicable governing agencies.

28.16 REVIEW PROCEDURES

A. Preliminary Review

Any applicant can request a preliminary review of a proposed condominium development with the Zoning Administrator and one to three Planning Commissioners. This review allows an open dialogue and an opportunity to discuss a proposed goals, features, location and scope of operations prior to a formal application. Preliminary Review is available as a sounding board only, no decisions or approvals shall be rendered, either stated or implied.

B. Agency Submittal

The applicant shall provide copies of the proposed condominium development plan to the following Grand Traverse County Agencies: Health Department (or Department of Public Works if proposed on municipal water and/or sanitary sewer), Drain Commission, Soil Erosion, and Road Commission (or Michigan Department of Transportation if proposed on a state highway), as well as the Michigan Department of Environment, Great Lakes, and Energy (when sensitive areas and wetlands are a concern), and the Whitewater Township Fire Department or the respective successor for any of the above agencies. Four (4) hard copies and a digital print shall also be provided to the Whitewater Township. The Zoning Administrator shall distribute the proposed condominium development plans to the Planning Commission and Board of Trustees for review.

C. Public Hearing

The Planning Commission shall hold a public hearing on the proposed site condominium development plan, for the purpose of reviewing and making a recommendation of approval, approval with conditions, or denial to the Township Board.

D. Planning Commission Determination

After preceding with the **Article 25, Site Plan Review** process, if the Planning Commission determines that the proposed plan meets all the requirements of this Ordinance and the Condominium Act, the Planning Commission shall recommend approval or approval with conditions of the site condominium development plan and shall send written notice of action taken with comments to the Township Board and applicant.

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If the Planning Commission determines that the condominium development plan does not meet all requirements, the Planning Commission shall state its reason in its official minutes and shall provide written notice of said decision to the Township Board and applicant. The Planning Commission shall recommend to the Board, disapproval of the plan until the objections causing disapproval have been changed to meet the requirements of this Ordinance and the Condominium Act.

E. Township Board Procedure

The Township Board shall not review, approve or reject a condominium development until it has received from the Planning Commission its report and recommendations.

The Township Board shall consider the condominium development plan at its next meeting after receipt of the report and recommendations from the Planning Commission provided all documents are received 15 days prior to meeting date. The Board shall render a written decision within 15 days their meeting unless the applicant and Board agree to a later deadline.

F. Township Board Determination

The Township Board shall approve the condominium development plan, with or without conditions, reject the plan and give its reasons, table the proceedings pending further review or pending changes to the plan to make it acceptable to the Board, or refer that application back to the Planning Commission for further review and report.

28.17 CONDITIONS AND DURATION OF APPROVAL

A. Conditions

The approval of the Board of Trustees will indicate that the proposed condominium development plan meets the ordinances and regulations of Whitewater Township, but does not cover additional permits that may be required after the Master Deed has been recorded. The Township may impose reasonable conditions on the approval of any condominium development plan consistent with the Condominium Act, this Ordinance, and the protection of public health, safety and welfare.

B. Duration

Approval of the condominium development plan by the Township shall be for a period of two (2) years from the date of approval. If no Master Deed is recorded with the Grand Traverse County Register of Deeds Office within two years of approval, such approval shall be considered null and void. The Zoning Administrator may extend the two-year period by one additional year if applied for by the applicant subject to satisfying the requirements of **Section 25.15 Failure to Initiate Construction**.

C. Condominium Development Plan Approval Contract

If the Township Board approves the site condominium development plan, it shall prepare a written order setting forth the conditions upon which the approval is based. Such order shall be entered into between the Township and the applicant prior to the issuance of a Land Use Permit for any construction in accordance with the approved site condominium development plan. All reasonable costs related to the preparation of said order, as established by the Township, shall be paid by the applicant to the Township Treasurer prior to Township signature and issuance of such order.

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28.18 FINAL FILINGS REQUIREMENTS

Prior to the recording of the Master Deed the Township Treasurer shall certify that all taxes and special assessments not delinquent. A copy of the Master Deed, Bylaws/ Restrictive Covenants must be recorded with the County Register of Deeds. The Township shall be provided with two (2) copies of each document, including as-built prints, and all pertinent attachments which shall remain on file with the Township.

28.19 CONDOMINIUM DEVELOPMENT AMENDMENTS

Condominium Development Plans may be amended as follows:

A. Minor Amendments

Minor amendments are those which are determined by the Zoning Administrator to have no foreseeable effect beyond the condominium development boundary such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways. Minor amendments for good cause may be authorized by the Zoning Administrator provided that no such changes shall increase the size or height of structures, reduce the efficiency of public facilities serving the site condominium, reduce usable open space, or encroach on natural features proposed by the plan to be protected.

B. Major Amendments.

Any amendment not qualifying as a minor amendment as determined by the Zoning Administrator shall be considered a major amendment and must be approved by the Planning Commission according to the procedures authorized by this Article for approval of a condominium development.