

SAFETY NOTICE:

Due to Covid-19 guidelines, in person seating for the meeting will be limited. All attendees are respectfully requested to wear a mask within the building and observe social distancing practices. Additionally, we request that any individual that is running a fever, coughing, sneezing (even allergies), or just not feeling well, refrain from attending in person and utilize our Zoom attendance option.

Thank you. The Whitewater Township Planning Commission

Whitewater Zoom is inviting you to a scheduled Zoom meeting.

Topic: Planning Commission Meeting

Time: Oct 7, 2020; 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/93550001213?pwd=QVc2N1BDdE1udXkydURpd3lGMDJxZz09>

Meeting ID: 935 5000 1213

Passcode: 873005

One tap mobile

+13126266799,,93550001213#,,,,,0#,,873005# US (Chicago)

+16465588656,,93550001213#,,,,,0#,,873005# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

Find your local number: <https://zoom.us/j/93550001213?pwd=QVc2N1BDdE1udXkydURpd3lGMDJxZz09>

Meeting ID: 935 5000 1213

Passcode: 873005

WHITEWATER TOWNSHIP PLANNING COMMISSION

AGENDA FOR REGULAR MEETING, *October 7, 2020*

7:00 p.m., Whitewater Township Hall

Via ZOOM and in person

5777 Vinton Road, Williamsburg, MI 49690

Phone 231-267-5141/Fax 231-267-9020

1. Call to Order/Pledge Allegiance
2. Roll Call of Commission Members
3. Set/Adjust Meeting Agenda
4. Declaration of Conflict of Interest
5. **Public Comment:** Any person shall be permitted to address a meeting of the Planning Commission. Public comments shall be carried out in accordance with the following rules and procedures:
 - a. Comments shall be directed to the Commission, with questions directed to the Chair.
 - b. Any person wishing to address the Commission shall speak from the lectern and state his/her name and address.
 - c. Persons may address the commission on matters that are relevant to township planning and zoning issues.

- d. No person shall be allowed to speak more than once on the same matter, excluding the time needed to answer Commission members' questions.
- e. Public comment shall be limited to 3 minutes.

- 6. Public Hearing: None
- 7. Approval of minutes of September 2, 2020
- 8. Correspondence: None
- 9. Reports/Presentations/Announcements/Comments
 - a. Zoning Administrator, Hall: Report included in packet
 - b. Chair, Mangus
 - c. Township Board Representative, Lawson
 - d. ZBA Representative, Hooper
- 10. Unfinished Business:
 - a. Event Barns – No review of text. Re-evaluate timing.
 - b. Review Article 28, Condominium Regulations
 - c. Master Plan Update – Review input from commission members
- 11. New Business:
 - a. Update on Board decision regarding marijuana
- 12. Next Meeting November 4, 2020
- 13. Public Comment
- 14. Commission Discussion/Comments
- 15. Continuing Education: Short term rental information provided by zoning administrator
- 16. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township clerk at 231-267-5141 or the TDD at 800-649-3777.

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR REGULAR MEETING
September 2, 2020

Call to Order at 7:02 p.m.

Roll Call: Dean, Hooper, Jacobson, Lawson, Mangus, Wroubel

Absent: Savage

Also in attendance: Recording Secretary MacLean; Zoning Administrator Robert Hall via Zoom

Meeting via Zoom 4 participants

Set / Adjust Agenda: Set

Declaration of Conflict of Interest: None.

Public Comment: None

Public Hearing: None

Approval of Minutes:

MOTION by Lawson, second by Jacobson to approve July 1, 2020, Meeting Minutes with changes.

ROLL CALL: Dean-yes; Hooper-yes; Jacobson-yes; Lawson-yes; Mangus-yes; Wroubel-yes, Savage-NA. All in favor.
Motion carried.

Correspondence: Items of correspondence included in the packet.

1. East Bay Township Intent to Amend Master Plan.

Reports:

Zoning Administrator Report Hall: No word on what is happening with the property that has been cleared on M72.

It is laid out in the zoning ordinance how the PC is to make changes to ordinances. There are statutory processes that need to be followed. Anyone has the option to request a zoning change. The PC must address the request.

Zoning office has been receiving inquiries regarding short term rentals (STR). If STRs are allowed they do not have to be allowed in all districts.

Chair's Report, Mangus: Introduce Carl Wroubel, new PC member. Retired, year-round resident.

Township Board Rep., Lawson: Nothing to share today.

ZBA Representative, Hooper: No meetings.

Committee Reports: None.

Additional Items: None.

Unfinished Business

1. RC Survey evaluation of timing and direction: In the current conditions we cannot accommodate people in the meetings. It is bad timing right now and we don't want the perception to be that it is being addressed without the ability to have the public input and attendance.

Re-evaluate the survey and gathering of input first of the year.

Motion by Lawson, second by Jacobson to table the subject of the RC District Survey and Review until the January 2021 meeting to re-evaluate and set schedule at that time.

Roll call vote: Hooper-yes; Jacobson-yes; Lawson-yes; Mangus-yes; Wroubel-yes, Savage-NA; Dean-yes.
All in favor. Motion carried.

2. AG District Review – No review of text. Postpone.
3. Article 28, Condominium Regulation Review based on attorney feedback: Be consistent with verbiage. Run through the suggested changes from the attorney. Consensus on changes. Mangus will make the discussed changes and bring it back next month for review and discussion. If in agreement at that point will look at scheduling a public hearing for the November meeting.
4. Master Plan (MP) Update: Savage recommends leaving history and location the same.
Run through recommendations provided by Mangus.
Run through recommendations provided by Hooper.
Future planning of the MP should start in Part 3.
Rearrangement of the sections of the MP. Example: Current part 5 is the summary of the existing land use,

indicating the way things are and make it part 6 and address changes.
Dean and Jacobson's sections will be presented next month.
Demographics, economic base needs more information - Lawson
Natural features, topography, soils, etc. - Wroubel

New Business:

1. None

Next Regular Meeting is scheduled for October 7, 2020.

Agenda (per notes of current and previous meetings): Article 28, Condominium Regulation Review, Master Plan update and (as requested by the township board) evaluate timing of addressing the subject of Event Barns.

Public Comment:

In-person: None

Via Zoom: None

Commission Discussion/Comments: None

Continuing Education: None.

Adjournment: 8:57 p.m.

Respectfully Submitted
Lois MacLean,
Recording Secretary



Whitewater Township Zoning – Staff Report OCTOBER - 2020

Planning and Zoning

This office has been unusually busy during these uncertain times (see Land Use Permit Activity below). In addition, this office has been receiving numerous inquiries related to two specific topics (maybe three). The first is becoming increasingly prevalent in many communities: Short-Term Rentals. At first glance we may not be too concerned with what may already be happening. However, I can assure you that those that live in close proximity to properties being used in this manner are very aware. For the convenience of the Township Board and Planning Commission I have included two very comprehensive issues of the Planning and Zoning News that focus on Short-Term Rentals (*with permission of the editor*).

Also attached is the most recent copy of **Fahey Schultz Burzych Rhodes** monthly newsletter – also focused on Short-Term Rentals. This newsletter is one of the first that I have seen that actually explores the positive effects and influence that Short-Term Rentals can have on communities that are influenced by the tourism industry, when properly regulated or managed.

With the most recent modification of the long string of executive orders it looks as though the planning commission can once again begin meeting in person **and** host at least several guests.

Land Use Permit Activity

Here's a 'snip' of the most recent activity covering the brief summer to date. This is a picture of a 'live' excel sheet that I transmit to the assessor. The little red triangles in the corners of some cells will expose special information such as physical building sizes (see picture below).

2020-27	000718	28-13-133-018-00	V	Davidson, Becky and Richard	Deck Replacement	7/30/2020
2020-28	000719	28-13-124-002-02	R1	Belanger, Michael	New Dwelling*	7/30/2020
2020-29	000720	28-13-113-002-00	R1	McJoint, Amy and Thomas	New Dwelling*	7/30/2020
LD-2020-07	N/A	28-13-031-002-01	RC	Mann, Randall	Land Division	7/23/2020
2020-30	000721	28-13-611-005-00	R2	Habitat For Humanity	New Dwelling*	7/30/2020
2020-31	000722	28-13-010-005-10	RC	Stratton, Jerry and Kathy	Acc. Building	8/13/2020
2020-32	000723	28-13-032-002-03	RC	Litrun, David and Stephanie	Acc. Structure	8/13/2020
2020-33	000724	28-13-134-009-10	R1	Savage, Mike	Acc. Build. Add.	8/20/2020
2020-34	000725	28-13-031-006-05	RC	DeLong, Lynn - Trust	Acc. Bldg. Add.	8/20/2020
LD-2020-08	N/A	28-13-104-001-08	R1	Dean, Susan	Land Division	9/3/2020
COMB-2020-09	N/A	28-13-104-001-05	R1	Dean, Tony	Lot Line Adjust	9/3/2020
2020-35	000726	28-13-830-012-00	R1	Darrow, Alex	Fence	9/10/2020
2020-36	000727	28-13-003-010-21	C1	Savage - Renne's Quilts	Special Event	9/10/2020
2020-37	000728	28-13-017-004-61	RC	Carter, Scott and Diane	Acc. Building	9/24/2020
2020-38	000729	28-13-109-021-10	A1	Merchant, Steve and Sadie	Two-Fam. & Acc.	9/24/2020
2020-39	000730	28-13-880-075-00	R1	Grahek, Joey	Chainlink Fencing	9/24/2020
2020-40	000731	28-13-133-017-10	R3	Whitewater Township	OTHER - OTHER	9/24/2020
2020-41	000732	28-13-136-001-00	A1	DeBono, John and Janice	New Dwelling	10/1/2020
2020-42	000733	28-13-015-001-20	RC	Hubble, John	Porch/Deck	10/1/2020

Acc. Building	8/13/2020	\$50.00	022
Acc. Structure	8/13/2020	\$50.00	022
Acc. Build. Add.	8/13/2020	\$50.00	022
Acc. Bldg. Add.	8/13/2020	\$50.00	022
Land Division	8/13/2020	\$50.00	022
Lot Line Adjust	8/13/2020	\$50.00	022
Fence	9/10/2020	\$25.00	022

Note Detail Box Expanded

Zoning Board of Appeals

There have been no variance requests, interpretation requests, or appeals to any administrative decisions recently. Any Land Use Permit application that fails to meet the required standards is discussed with the contractor / applicant. So far – all issues have been resolved to bring site plans into compliance so that permits may be issued.

Training

I have personally completed a mini-series of 4 one-hour training sessions through MTA. A link to the recordings has been sent to me and I will explore the possibility of sharing.

Respectfully submitted,



Robert (Bob) Hall

Fahey Schultz Burzych Rhodes

EXPERT COUNSEL



REAL SOLUTIONS

(517) 381-0100

4151 Okemos Road, Okemos, MI 48864

Search Search ...

[Menu](#)

Short-Term Rentals: What You Need to Know

September 2020

Short-term rentals ("STRs") are generally considered owners and renters of houses listed on such sites as Airbnb, HomeAway and VRBO. The issue has gained significance in many communities, creating a hotly debated discussion over whether these uses are already allowed throughout various residential districts. And, if they are not allowed, whether a township should adopt regulations allowing them. The battle over STRs reached the highest court in Michigan in June 2020. The court system, however, is not the only area where STRs are being contested. Legislation has been actively introduced to preempt local control on the issue, and many groups are working with their local officials on developing ordinances that apply to STRs. This E-Letter highlights the various issues surrounding STRs and how municipalities can consider regulating such uses, as well as raising recent legislation looking to preempt local control on the issue.

What is a Short-Term Rental?

Short-term rentals ("STRs") describes the use of a dwelling to provide rental accommodations to short-term guests. In recent years, STRs have become far more commonplace with the growing popularity of sites like Airbnb, HomeAway and VRBO. While there are several variations on STRs that may be encountered—some are owner-occupied while others are remotely operated, and some involve the rental of an entire dwelling, an accessory dwelling, or just a dwelling unit (i.e. a room)—STRs all share the common feature of converting a residential use to a quasi-commercial rental use. This change in use is often lucrative for the owner and controversial to neighboring residents, which makes it an excellent target for municipal regulation.

Why are Short-Term Rentals Controversial?

Though STRs can be a boon for homeowners, neighbors are often less than excited about commercial rental property being close to their homes. This lack of enthusiasm stems from a

variety of factors.

Sometimes, those that rent STRs can disturb the day-to-day life of the community in which the STR is located. If left unchecked, STRs can be accompanied by partying, drinking, late night music, garbage accumulation and other boisterous conduct that disturbs neighboring residents. This problem may be especially prevalent when an STR is situated in a typically quiet community or when an STR allows large numbers of renters or fails to limit the number of guests that renters can invite to the STR.

Renters may also invite guests and visitors, which can further compound the problem. Opponents of STRs cite increased traffic and parking issues as a concern. STR operators may seek to maximize profit by increasing the sleeping capacity of a dwelling to accommodate more renters, but do not always provide a corresponding amount of parking, which can lead to excessive street parking and congestion.

Safety concerns are also cited as evidence against STRs. These problems can arise from the conduct of the renters—things like unattended bonfires, carelessly used fireworks, or the operation of watercraft or other recreational vehicles under the use of alcohol, but can also arise from the owner of the STR if the dwelling fails to comply with applicable fire or building codes.

Further, STRs may have a negative impact on home values. Some studies have revealed that homes or condos adjacent to STRs may take longer to sell or bring in lower offers. However, the impact STRs have on property values depends on a variety of factors, and in some communities STRs can actually increase, rather than decrease property values, as explained in greater detail below.

Benefits of Short-Term Rentals

Despite the controversy surrounding STRs, some municipalities have seen benefits from such uses within the community. STRs can increase the tax revenue. More available rental lodging in an area also tends to increase tourism, which in turn can benefit local restaurants, stores, and public services.

Some Michigan communities, especially near lakes, rely on tourism to sustain businesses in their area. Tourism is a huge draw for the entire state. The Tourism Industry Coalition of Michigan (TICOM) and Travel generated \$171 billion in federal, state and local tax revenue in 2018, mostly from tourism-related spending. If the community in question is in a tourist heavy area, permitting STRs could actually *increase*, rather than decrease property values. Whether or not limiting STRs within a community is community specific and depends on various factors, including the local economy, availability of local tourist destinations, or other physical items, such as lakes or beaches.

Deciding Whether to Use a Zoning Approach, Police Power Approach, or Hybrid

To balance the potential harms of STRs against their benefits, many local governments choose to regulate STRs within their communities. These restrictions can take a variety of forms, but typically fall into two major categories: zoning ordinances and police-power ordinances.

A zoning ordinance regulates the use of land and buildings according to districts, areas, or locations. Examples of “land use” regulations include, among others, setbacks, parcel size, maximum structure height, building form and principal and accessory use of the land or use within buildings allowed within particular locations. Another aspect of zoning is the requirement that the regulation can never be retroactive—existing land uses and activities that are **currently lawful** under the zoning ordinance must be allowed to continue. Those are called “nonconforming” uses, buildings or “parcels.” Such an allowance is colloquially known as “grandfathering.” Notably, if a use is not allowed when a new regulation is enacted, it will not be “grandfathered” in.

A police power ordinance does not regulate the “use of land,” rather; it regulates an “activity.” Examples of “activity” include, among others, motor vehicle regulations, parking, health code, food safety, boats and marinas, blight, noise and junk. Unlike zoning ordinances, police power ordinances do not have to have a grandfather clause and can apply to existing uses. However, police power ordinances cannot be restricted to a single zoning district—they must apply to the municipality as a whole.

In the context of STRs, these two approaches offer different advantages. Generally speaking, zoning ordinances allow for STRs to be confined to a particular district and can regulate dimensional aspects of STRs but will not apply to existing STRs that lawful under the municipality’s current regulations. On the other hand, police power ordinances will apply to existing STRs and can more fairly focus on conduct of the renters but will not be able to limit STRs to a certain location within the municipality. These two approaches can be also combined depending on the need of the community.

Reaume v Township of Spring Lake

STRs were recently the subject of a case before the Michigan Supreme Court in *Reaume v Tp of Spring Lake*, 943 NW 2d 394 (2020). In *Reaume*, the Michigan Supreme Court examined whether STRs were a permitted use in defendant Spring Lake’s residential district. The plaintiff landowner claimed that STRs were permitted use of residential property as a single-family dwelling, while Spring Lake argued that STRs did not meet its zoning ordinance’s definition of single-family dwelling, because Spring Lake’s zoning ordinance defined a “family” to exclude “transitory or seasonal” relationships.

The *Reaume* Court rejected *both* these arguments, but nevertheless found that STRs were prohibited in the Spring Lake's residential districts. The Court reasoned that STRs closely matched the zoning ordinance's definition of "motel," which were defined to include a "[b]uilding ... containing sleeping ... [u]nits which may or may not be independently accessible from the outside with garage or [p]arking [s]pace located on the [l]ot and ... occupied by transient residents." Because this definition accurately described STRs, the Court concluded that STRs were subject to the same regulations as motels for the purposes of Spring Lake's zoning ordinance and would only be permitted in zoning districts in which motels were a permitted use. The *Reaume* Court further noted that even though a STR might not fit the commonly understood meaning of a "motel," the definition set forth in the zoning ordinance was controlling.

The *Reaume* case illustrates the importance of examining whether existing land use definitions accurately describe STRs. If so, a municipality can regulate STRs even if the term "short-term rental" is not included in its zoning ordinance.

Provisions to Consider in a Short-Term Rental Regulation

While some municipalities opt to ban STRs outright (or if STRs fit into an existing definition of a land use that is tightly controlled within a municipality), if there is a desire for STRs within a community it may be worthwhile to develop a regulatory scheme for STRs. Such regulations could include any combination of the following controls:

- Crafting zoning regulations to allow STRs only in a particular zoning district. While several Michigan courts have construed STRs to be "commercial uses" of land, STRs can certainly coexist in residential districts with the appropriate protections and regulatory limitations.
- Regulating STRs as a "special land use" under a municipal zoning ordinance. This classifies an STR as permissible only under a certain set of circumstances predetermined by the municipality and subject to review by the Planning Commission.
- Creating a distinct, specific definition for STRs in the zoning ordinance. Express exclusions such as, "not including a hotel, motel, BNB, etc." are recommended because this lends clarity to the ordinance. Such language carves out a specific subsection and definition for STRs that differ from hotels, motels, or bed and breakfasts. Another good practice is to amend other definitions to expressly exclude STRs (i.e. "Single family dwellings do not include STRs").
- Building in an application procedure, permitting, or licensing scheme for STRs in the zoning ordinance or police power ordinance. Requiring a permit or license fee will help defray the cost of administration and enforcement for the STRs.

- Create temporal limitations for STRs in the zoning ordinances. For instance, the municipality could specify a maximum stay or the number of rentals per year or the months/season that STRs can rent.
- Limit the number of guests that can stay at the STR. Limiting the number of guests can help with noise regulation, overcrowding, and safety concerns for the community. Limiting the number of vehicles in a driveway is also an effective way to restrict occupancy without having to enter the rental to confirm.
- Prohibit the use of STRs for events, weddings, parties, etc. This will help on the occupancy or crowd control front.
- Distribute copies of the STR ordinance provisions to neighbors and the community. This can make the neighbors feel less powerless about the STR next door.
- Establish a procedure for revocation of STR licenses under defined, specific circumstances.
- Enact and enforce police power noise ordinances. One of the most common complaints about STRs is that guests renting the STR are inconsiderate to the residential nature of the neighborhood and fail to regulate the volume of their activities while they are renting. Enforcing quiet hours for the entire community and enforcing noise ordinances equally in the community can help restrict noise levels and ensure that the process of enforcement is fair for all.

Pending Legislation

There is a bill pending in the house and senate that would deprive townships of a serious amount of local control over STRs. HB 4503 and 2017 SB 329 would make STRs a “residential use of property and permitted in all residential zones.” Troublingly, this bill would be contrary to a significant number of Michigan cases which have concluded that STRs are commercial, rather than residential in nature. These bills would also exempt STRs from SUP or conditional use permit different from those required for other dwellings and allows regulations on noise, advertising and traffic. Further, these bills define an STR as a “rental of 1-4 family house or dwelling unit for less than 28 days at a time.” If this bill were to pass, it would significantly impact the analysis that courts have used to uphold STR regulations and restrictions in Michigan communities.

STRs and their authorization should remain under local control as each community should be permitted to decide how STRs exist within their community.

Conclusion

STRs can be economic boons to the communities they are in. They can drive up property values, increase tourism, and ultimately result in increased revenue for the community. However, some locals may find STRs disruptive to residential areas and generally undesirable due to many potentially negative side effects, which can occur if STRs are allowed to operate without being subject to legal.

Regulation is the key to community success where STRs are concerned. Before implementing any regulation, consider what kind of regulation you are trying to implement. Review your existing ordinances and consider whether existing definitions fit STRs. If not, it is important to expressly define what an STR is, under what circumstances they are allowed, and where they are allowed. Precise definitions at the drafting stage will help avoid ambiguity and ultimately costs should litigation arise.

By: Christopher S. Patterson and Jacob N. Witte

Fahey Schultz Burzych Rhodes PLC, Your Township Attorneys, is a Michigan law firm specializing in the representation of Michigan townships. Our lawyers have more than 150 years of experience in township law and have represented more than 150 townships across the state of Michigan. This publication is intended for our clients and friends. This communication highlights specific areas of law and is not legal advice. The reader should consult an attorney to determine how the information applies to any specific situation.

Copyright © 2020 Fahey Schultz Burzych Rhodes PLC

Dedicated to serving your legal needs.

REQUEST CONSULTATION

Dedicated to serving your legal needs.

REQUEST CONSULTATION

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, consult 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 paid by the **applicant** prior Township signature and issuance of approval **in addition to the standard nonrefundable application fee**.

Note: Is the Township Attorney a “consultation” or “internal” review?

ADD

At any point during the review process, the Township may require that the applicant place additional funds with the Township if the existing amount deposited by the developer is deemed insufficient. If consultation funds need replenishing and the applicant refused to do so promptly, review of the condominium development plan

Draft Ordinance under review by Whitewater Township Planning Commission

shall cease unless and until the applicant makes the required additional deposit. Any unused portions of the consultation funds paid by the developer remaining after the Township completes all necessary consultations shall be returned to the applicant.

OR

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.

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.

Note: Add the word "internal" for distinction from "consultations" and distinguish preliminary review fee from actual application fees.

C. Required Content

Size and Scale

The **condominium development** plan 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.

D. 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. The name of the proposed **condominium development**.
2. 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 applying for the condominium development**.
3. The legal description of the land on which the condominium development will be developed together with any expansion plans and appropriate tax identification numbers.
4. The acreage of the land on which the **condominium development** will be developed.
5. The land use and existing zoning of the proposed **condominium development**.
6. The following information for subject parcel and all parcels within 300 feet of the proposed site:

Draft Ordinance under review by Whitewater Township Planning Commission

- a. Name and address of the owners
- b. The zoning classifications
- c. Existing structures or significant land marks

OR

6. The name of the owners of the subject parcel, the zoning classifications and existing structures on the subject parcel as well as adjoining parcels within 300 feet of the site.
7. Location, type, dimensions and proposed use of all existing structures.
8. A location map showing the relationship of the proposed plan to the surrounding area.
9. 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.
10. Condominium lot lines and the total number of condominium units to be developed on the subject parcel.
11. Description of water system to be provided.
12. Description of sanitary waste disposal system to be provided.
13. Right-of-way easements, showing location, width, and purpose.
14. Existing topographic elevations at two (2) foot intervals, proposed grades and direction of drainage flows.
15. Location and types of all significant existing vegetation, water courses and bodies, flood plains and water retention areas, wetlands, and soil types.
16. Any additional information required during site plan review

E. 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.

F. Encroachment Prohibited

Encroachment of one condominium unit upon another, as described in Section 40 of the Condominium Act, shall be prohibited by the condominium by-laws and recorded as part of the master deed.

G. 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 parks. 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 with front, rear, and side condominium lot lines 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 "site condominium lots".

Draft Ordinance under review by Whitewater Township Planning Commission

Note: Should be "Condominium Lots" as not every development will be "site condo"

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 Zoning Administrator, Planning Commission, and Township Board.

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 setbacks and bulk 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.
5. Existing natural features which add value to a residential development and enhance the attractiveness of the community (such as trees, water courses, spots of historic significance, and similar irreplaceable assets) shall be retained, insofar as possible, in the design of the subdivision. Particularly where they furnish a barrier or buffer between the **condominium development** and adjoining properties used for dissimilar purposes, and help control erosion or discharge of storm waters.
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

Draft Ordinance under review by Whitewater Township Planning Commission

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), the **Whitewater Township** Fire Department. Four (4) hard copies and a digital print shall also be provided to the Whitewater Township Planning and Zoning Department. 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**.

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.

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. The Board shall render a written decision within 45 days of receipt of the Planning Commission's recommendations **unless the applicant and Board agree to a later deadline**.

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

Draft Ordinance under review by Whitewater Township Planning Commission

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.

28.18 FINAL FILINGS REQUIREMENTS

Prior to the recording of the Master Deed the Township Treasurer shall certify that all taxes and special assessments are paid in full. 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**.

28.20 REQUIRED FEES

Fees for the review of site plans shall be established by resolution of the Township Board.

Draft Ordinance under review by Whitewater Township Planning Commission

Condominium Conversion – Any property or group of properties whose form of ownership is changed to condominium units from another form of ownership such as mutli-family, resort, or motel.

Or

A Condominium Conversion or **condo conversion** - the process of entitling a property or group of properties from sole ownership of the entire property (which often already is a multi- unit property) into individually units which can be sold as individual **condominium units**.

Community Facilities and Services.

The township hall has been located at Vinton Road since 1889. The building was enlarged in the 1960s with a major renovation taking place in 1999. The hall serves as offices for the supervisor, clerk, treasurer, zoning administrator, assessor, Historical Society, and also hosts neighborhood association meetings.

Emergency Services

Fire and Rescue

The Whitewater Township Fire Department provides fire, rescue, and MFR services to our 54 square mile township. Mutual aid agreements with Metro, Elk Rapids, Clearwater, Fife Lake, and the DNR provide additional resources when needed.

Medical Response

Ambulance service is provided by Mobile Medical Response, MMR. A two person ambulance crew consisting of at least one paramedic answers every call. Ambulance personnel are on duty 24 hours a day, 7 days a week, 365 days a year. Advanced Life Support service is also provided by MMR.

Law Enforcement

Law Enforcement services to Whitewater Township are provided by several different agencies. Grand Traverse County Sheriffs office being the primary agency for most calls. The township is also served by the Michigan State Police working out of the Traverse City Post. Because nearly half of Whitewater Township is designated State recreation land and open water, we also tend to have a regular presence of Michigan Conservation offices.

Other Community Partners

Grand Traverse County dispatch provides 911 emergency call services and dispatch coordination between agencies. The Grand Traverse County Emergency Management Department provides strategic emergency planning and interdepartmental training.

Munson Hospital

MedFlight

US Coast Guard