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SITE CONDOMINIUM ORDINANCE
City of Gaylord, Michigan
ord. no. 042896a eff. April 28, 1996

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Sec. 1. **PURPOSE AND SCOPE.**

1. The purpose of this Chapter is to provide procedures for the orderly use and development of property which results in the creation of five or more lots, as defined herein, each of which is ten (10) acres or less in size and which is not otherwise regulated by the City's Subdivision Ordinance and the Michigan Subdivision Control Act of 1967 (Act 288, Public Acts of Michigan) as amended. This Chapter insures that a site condominium development shall be reviewed with the objective and intent of achieving many of the same characteristics and land use results as if the proposed development and improvements were being reviewed under the City's Subdivision Ordinance. This Chapter identifies minimum standards for the development of property as site condominiums in the City, and sets forth procedures to be followed by the City in applying these rules, regulations and standards.

In addition, the purpose of this Chapter is to:

- a. Provide for orderly growth and harmonious development of the City consistent with orderly growth policies;
 - b. Secure adequate traffic circulation through coordinated street systems with proper relation to major thoroughfares, adjoining subdivisions, and public facilities;
 - c. Achieve adequate provisions for water, drainage, and sanitary facilities and other health requirements;
 - d. Encourage the provision of recreational areas and facilities, school sites and other public facilities;
 - e. To insure against the creation of unsafe or undesirable conditions;
 - f. To regulate the density of development in relation to the availability of, or lack of, utilities service;
 - g. To conserve natural features;
 - h. To carry out the purpose and intent of the City of Gaylord Master Plan and Zoning Ordinance; and
 - i. To provide procedures for the achievement of these purposes.
2. Site condominium projects are condominium developments in which each

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condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit.

3. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for purposes of determining compliance with the requirement of the Zoning Ordinance and other applicable laws, ordinances and regulations. Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project.

17.102 **Sec. 2. ADMINISTRATION.**

1. To ensure that site condominium projects comply with the City of Gaylord Zoning Ordinance, this Chapter requires preliminary review of site condominium project plans by the Planning Commission followed by final review and approval by the City Council, as provided by the Condominium Act (PA 59 of 1978) as amended. Site condominium projects may be approved as provided by this Chapter in any zoning district for the uses permitted in the zoning district in which the project is located.

17.103 **Sec. 3. SCHEDULE OF FEES.**

1. The schedule of fees for the review of projects under this Chapter shall be as required by City Council resolution as amended from time to time.

17.104 **Sec. 4. DEFINITIONS.**

1. For purposes of this Chapter, the following words and phrases are defined as follows:
 - a. **Building Envelope** means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the Master Deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium within which the dwelling and any accessory structures may be built.
 - b. **Condominium Act** means Public Act 59 of 1978, as amended.

- c. **Condominium Project** shall mean a condominium project developed under the Condominium Act.
- d. **Condominium Structure** shall mean the principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures; e.g. in a residential development, the condominium structure would refer to the house and any attached garage.
- e. **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 vacant air space, designed and intended for separate ownership and use as described in the site condominium project Master Deed, and within which a building or other improvements may be constructed by the condominium unit owner.
- f. **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:
 - i. 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;
 - ii. A change in the voting rights of co-owners or mortgagees; or
 - iii. 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.
- g. **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.
- h. **Lot(s)** shall also mean the same as Building Site(s) and is that portion(s) of a condominium project designed and intended for separate ownership and/or exclusive use, as described in the Master Deed. Lot may be further defined as:
 - i. A condominium unit consisting of the area under a building

envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as required by this Ordinance; or

- ii. The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit for the owner(s) exclusive use, and which, together with the condominium unit, meets the minimum area and yard requirements for lots as required by this Ordinance.

I. **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:

- i. An increase of 20% or more in the number of site condominium units;
- ii. 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.

j. **Master Deed** means the legal document prepared and recorded pursuant to Public Act 59 of 1978, as amended, to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

k. **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:

- i. An increase of less than 20% in the number of site condominium units or a decrease in the number of site condominium units; and
- ii. 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.

- l. **Setback - Front, Side and Rear Yard** shall mean the distance measured from the respective front, side, and rear of the condominium structure/building envelope to the equivalent of the front, side, and rear lot line respectively.
- m. **Site Condominium Project** means a plan or project consisting of not less than two site condominium units established in compliance with the Condominium Act.
- n. **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 City Council.

17.105. Sec. 5. REVIEW OF PRELIMINARY PLANS BY THE PLANNING COMMISSION.

- 1. Prior to final review and approval of a site condominium project plan by the City Council, a preliminary site condominium project plan shall be reviewed by the Planning Commission in accordance with the procedures, standards and requirements provided by this Chapter. Such review shall take place following a public hearing by the Planning Commission on the preliminary plan. For such hearing, at least ten days= notice shall be given by ordinary mail, sent to the owners of or parties in interest in the lands within 300 feet of the lands to be included in the development, as the names of such owners and other parties are given in the current City tax assessment rolls.
 - a. Application Submittal Requirements.
 - i. An application for site plan review along with a minimum of twelve sets of the plan shall be submitted to the City Clerk at least two weeks prior to the next scheduled Planning Commission meeting along with a fee as set by the Gaylord City Council. The application shall at a minimum, contain the following information:
 - a. The applicant's name, address, and phone number.
 - b. Proof that the applicant is the owner of the property or has a legal or financial interest in the property such as a purchase agreement.
 - c. The name, address and phone number of the owner(s) of record if different than the applicant.
 - d. The address of the property.
 - e. Legal description or permanent parcel number of property.
 - f. Project description.
 - g. Size of the parcel in acres.

constructed, including minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height. For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front, side or rear yards shall be determined by measuring the distance from the equivalent front, side, or rear yard boundaries of the building site closest to the respective front, side or rear boundary of the building envelope. Building setback lines showing dimensions from all streets and lot lines shall be illustrated on the project plan.

- f. 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 City of Gaylord. All private streets in a site condominium project shall be developed to the same standards as required for public streets. A maintenance plan shall be submitted for all private streets.
- g. The site condominium project shall be connected to the City of Gaylord water and sanitary sewer facilities, if within 200 feet from the property line of the site condominium site. If public water and sanitary sewer facilities, are not available, each condominium unit 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 condominium unit's building site. Water and sanitary sewer facilities shall be installed according to the standards of the Otsego County Department of Health and the City of Gaylord.
- h. The name of abutting developments, if any.
- i. A map of the entire area scheduled for development if the proposed project is a portion of a larger holding intended for subsequent development.
- j. The land use and existing zoning of the proposed project. Zoning and land use on adjacent parcels should also be illustrated.
- k. A table listing the proposed lots by number, and the respective lot area for each lot.
- l. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward final approval of the project.

- d. Planning Commission Review.
 - i. 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 City Council not more than sixty (60) days after submittal of all required information. This sixty (60) day period may be extended by a written agreement between the developer and the Planning Commission.

If the Preliminary Project Plan does not meet all requirements contained herein, the Planning Commission shall notify the applicant by letter indicating any additional information or changes required.

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Sec. 6. REVIEW AND APPROVAL OF FINAL PLANS BY CITY COUNCIL.

1. After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the City Clerk a minimum of 12 copies of a Final Site Condominium Development Plan which complies with the requirements for a Preliminary Site Condominium Project Plan. The applicant shall also submit copies of reviews by those agencies with jurisdiction over the project as noted in Sec. 5(3)d. The City Clerk shall forward the copies of the final plan and other information to the City Council.
2. The Final Site Condominium Plan shall be prepared in accordance and comply with the applicable requirements of Section 8111 through 8122 of the City of Gaylord Subdivision Ordinance.
3. 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 Commission shall be reviewed by the Planning Commission as provided by this Chapter prior to submission of

the plan to the City Council.

4. After receiving the Planning Commission's recommendations on the Preliminary Plan and a Final Site Condominium Development Plan from the applicant, the City Council shall review and may approve, deny or approve with conditions the plan in accordance with the standards of Section 8111 through 8122 of the City of Gaylord Subdivision Ordinance requirements and other applicable procedures, standards and requirements provided by this Chapter.
5. The City Council may grant tentative approval of the project and shall set forth in writing the requirements that must be met for approval.
6. The City Council shall not review, approve or reject a Final Project Plan until it has received a report and recommendation from the Planning Commission on the Preliminary Project Plan, provided, however, that the City Council may act without a report and recommendation from the Planning Commission if the Planning Commission does not issue such a report and recommendation within the sixty (60) day review period or within such extended time period as may be agreed upon between the developer and the Planning Commission.
7. As a condition of approval of a Final Site Condominium Project Plan:
 - a. The City Council may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Board covering the estimated cost of improvements associated with the site condominium project for which approval is sought be deposited with the City Clerk.
 - b. The City Council may impose additional reasonable conditions of approval necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility load caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
8. Expandable or Convertible Condominium Projects:
 - a. 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 City Council in compliance with the procedures, standards, and requirements of this Chapter.

CONDOMINIUM PROJECT PLAN.

1. No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a Final Site Condominium Project Plan as approved by the City Council, including any conditions of approval.
2. Required permits may be issued by the City of Gaylord Building Inspector, and the developer may proceed with the project provided:
 - a. A Final Site Condominium Project Plan has been approved by the City Council and the approved plan signed by the Zoning Administrator;
 - b. All conditions to commencement of construction imposed by the City Council have been met; and
 - c. All applicable inspections, approvals, or permits from appropriate County and State review and enforcement agencies have been obtained for the project.

17.108. Sec. 8. REVIEW AND APPROVAL OF CHANGES TO APPROVED SITE CONDOMINIUM PROJECT

1. Any change proposed in connection with a project for which a Final Site Condominium Project Plan has previously been approved by the City Council shall be subject to review as provided by this Section:
 - a. Any change which constitutes a major change shall be reviewed by the Planning Commission and reviewed and approved by the City Council as provided by this Chapter for the original review and approval of preliminary and final plans.
 - b. Any change which constitutes a minor change shall be reviewed and approved by the Planning Commission alone without the need for a City Council review.
 - c. Any change which constitutes an exempt change shall not be subject to review by the City under this Chapter, but a copy of changes proposed (and of the changes made, if different than proposed) shall be filed with the City Clerk.

17.109 Sec. 9. INCORPORATION OF APPROVED PROVISIONS IN THE MASTER DEED.

1. All provisions of a Final Site Condominium Project Plan which are approved by the City Council as provided by this Chapter shall be incorporated by reference in the Master Deed for the site condominium project. Further, all major changes to a project shall be incorporated by reference in the Master Deed. A copy of the Master Deed as recorded with the Otsego County

Register of Deeds shall be provided to the City Clerk within ten days after recording the Plan with the County.

17.110 **Sec. 10. APPROVAL EFFECTIVE FOR ONE (1) YEAR.**

1. No approval of a Final Site Condominium Project Plan by the City Council shall be effective for a period of more than one year, unless construction of the project commences within that one year period and is diligently pursued to completion in accordance with the terms and conditions of the approval. This one year period may be extended by the Council in its discretion for additional periods of time as determined appropriate by the Council if the extension is applied for by the applicant within the effective period of the approval.

17.111 **Sec. 11. VARIANCES.**

1. A variance from the provisions of this Ordinance may be granted if the applicant demonstrates that literal enforcement of any of the provisions of this chapter is impractical, or will impose undue hardship in the use of the land because of special or peculiar conditions pertaining to the land. Upon application, the City Council, after recommendation by the Planning Commission, may permit a variance or variances which are reasonable and within the general policies and purposes of this chapter. The Planning Commission and City Council may attach conditions to the variance.

