

Chapter 25

CONDOMINIUMS AND SITE CONDOMINIUMS

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ARTICLE I. CONDOMINIUMS

DIVISIONS 1.

GENERALLY

Sec. 25-1. Title.

This chapter shall be known and may be cited as the condominium ordinance of the Village of Capac.
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-2. Purpose.

The purpose of this chapter is to regulate the creation and use of condominiums within the Village of Capac and to promote and protect the public health, safety and welfare.
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-3. Legal authorization.

This chapter is enacted pursuant to the statutory authority conferred by the Condominium Act, P.A. 59

of 1978, as amended, MCL 559.101 et seq., the city and Village Zoning Act, P.A. 207 of 1921, as amended, MCL 125.581 et seq., whereby all development utilizing any form of condominium subdivision of land may be reviewed and approved by the village planning commission and village council.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-4. Applicability.

The provisions of this chapter shall apply to the creation, use and approval of condominiums and site condominiums after the effective date of this chapter.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-5. Definitions.

All terms as defined in the Condominium Act shall control in this chapter unless indicated to the contrary in this section. The word "shall" is always mandatory and not discretionary. The word "may" is permissive. For the purpose of this chapter, certain words, terms and phrases shall be defined as follows:

A 100-year flood means a flood which has a one percent chance of occurring or being exceeded in any given year.

Act means Act No. 59 of the Public Acts of 1978, as amended being MCL 559.101 et seq.

Administrator means the department of consumer and industrial services or an authorized designee.

Association of co-owners means the person designated in the condominium documents to administer the condominium project.

Block means property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of the development.

Building envelope means the three-dimensional space within which a structure is permitted to be built on a zoning lot and which is defined with respect to such bulk regulations as height, yards, building coverage, and floor area ratio.

Condominium bylaws means the required set of bylaws for the condominium project attached to the master deed.

Condominium common elements means the portions of the condominium project other than the condominium units.

Condominium documents means the master deed, recorded pursuant to the act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium association.

Condominium project means a plan or project consisting of not less than two condominium units

established in conformance with the Act.

Conventional condominium project means a development in which ownership interest is divided under the authority of the Condominium Act and in which the condominium unit consists primarily of the dwelling or other principal structure and most of the land in the development is part of the general common area.

Site condominium project means a development in which ownership interest is divided under the authority of the Condominium Act and in which the condominium unit consists of a building site, with or without structures, which along with associated limited common elements, constitutes the equivalent of a lot.

Condominium subdivision development plan means the drawings and information prepared pursuant to MCL 559.166 of the Act which requires all condominium subdivision plans be prepared by an architect, land surveyor, or engineer licensed to practice in Michigan and that the drawings bear the signature and seal of such, (R559.401 and 559.402) part 4.

Condominium unit means a condominium development designed and intended separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

Condominium unit lot line means the dimensional lines used to delineate the condominium unit building envelope.

Consolidating master deed means the final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

Contractible condominium means a condominium project from which any portion of the submitted land or building may be withdrawn in accordance with the Act.

Conversion condominium area means a unit or portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created in accordance with the Act.

Co-owner means a person, firm, corporation, partnership, association, trust, or other legal entity or any combination thereof, who owns a condominium unit with the condominium project.

Developer means a person engaged in the business of development a condominium project as provided in the Act. Developer does not include the following:

- (a) A real estate broker acting as agent for the developer in selling condominium units.
- (b) Other persons exempted from this definition by rule or order of the administrator.

Easement means a grant by the owner of the use of a strip of land by the public, a corporation, or person, for specific uses and purposes, to be designated as a "public" or "private" easement depending on the nature of the use.

Expandable condominium means a condominium project to which additional land may be added in accordance with the Act.

Floodplain means that area of land adjoining a lake, watercourse, or similar body of water, which will be inundated by a 100-year flood.

Front yard area means one of the following:

- (a) In the case of a condominium unit which consists solely of a building envelope, a yard extending across the front of a building envelope and extending between the side of the condominium unit lot line and any adjacent forms of property ownership.
- (b) In the case of a condominium unit (site condominium) which includes a greater area than a building envelope, a yard extending across the front of a building envelope between the side of the condominium unit lot lines and measured between the building envelope and the condominium unit lot line.

Front yard area line means a line which demarcates the front yard of a condominium unit, but not including a side condominium unit lot line and nor any line abutting the building envelope.

Front yard setback shall be equal to the distance between the front yard area line and the building envelope.

General common elements means the common elements other than the limited common elements.

Improvements means the grading, street surfacing, curb and gutter, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, and other additions to the natural state of land which increases its value, utility or habitability.

Leasehold condominium means a condominium project in which each co-owner owns an estate for years in all or any part of the condominium project if the leasehold interests will expire naturally at the same time.

Limited common elements means a portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

Master plan means the comprehensive land use plan for the municipality, including graphic and written proposals indicating the general locations recommended for the streets, parks, schools, public buildings, zoning districts and all physical developments of the municipality, and includes any unit or part of such plan separately adopted, and any amendments to such plan or parts thereof duly adopted by the planning commission and approved by the village council.

Master deed means the condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project. The master deed shall include all of the following: (R559.301 part 3, contents of master deed)

- (a) An accurate legal description of the land involved in the project.
- (b) A statement designating the condominium units served by the limited common elements and clearly defining the rights in the limited common elements.
- (c) A statement showing the total percentage of value for the condominium project and the separate percentages of values assigned to each individual condominium unit identifying the condominium units by the numbers assigned in the condominium subdivision plan.
- (d) Identification of the local unit of government with which the detailed architectural plans and specifications for the project have been filed.
- (e) Any other matter which is appropriate for the project.

Person means an individual, firm, corporation, partnership, association, trust, the state or agency of the state, or other legal entity, or any combination thereof.

Phase of a condominium project means either of the following:

- (a) The land and condominium units of the condominium project, which may be developed under the initially recorded master deed without amendment to the master deed.
- (b) Each additional parcel of land and condominium unit added to the condominium project as provided for in an expandable condominium project.

Proprietor means a natural person, firm, association, partnership, corporation or combination of any of them, which may hold any ownership interest in land, whether recorded or not.

Rear yard area means one of the following:

- (a) In the case of a condominium unit which consists solely of a building envelope, a yard extending across the rear of a building envelope and extending between the side condominium unit lot lines and measured between the rear condominium unit lot line and any abutting forms of property ownership;
- (b) In the case of a condominium unit (site condominium) which includes a greater area than a building envelope, a yard extending across the rear of a building envelope between the side condominium unit lot lines and measured between the building envelope and the condominium unit lot line.

Rear yard area line means a line which demarcates the rear yard of a condominium unit, but not including a side condominium unit lot line and nor any line abutting the building envelope.

Rear yard setback shall be equal to the distance between the rear yard area and the building envelope.

Record means to record pursuant to the laws of this state relating to the recording of deeds. However, the provisions of the Land Division Act P.A. 288 of 1967 as amended, being MCL 560.101 to 560.293, shall not control divisions made for any condominium project.

Rules means Michigan Administrative Rules promulgated for P.A. 59 of 1978, being MCL 559.101 et seq.

Side yard area means one of the following:

- (a) In the case of a condominium unit which consists solely of a building envelope, a yard between the side of a building envelope and any adjacent form of property ownership and extending from the rear boundary line of a building envelope to the front boundary line of the building envelope.
- (b) In the case of a condominium unit (site condominium) which includes a greater area than a building envelope, a yard between the side of a building envelope and the side condominium unit lot line and extending from the rear lot line of the building envelope to the front lot line of the building envelope.

Side yard setback shall be equal to the distance between the side yard area line and the building envelope.

Side yard area line means that line(s) which demarcates the side yard of a condominium unit, not including front or rear condominium unit lot lines.

Size means the number of cubic feet or the number of square feet of ground or floor space, within each condominium unit as computed by reference to the condominium subdivision plan and rounded off to a whole number. Certain spaces within the condominium units including, without limitation, attic, basement, and garage may be omitted from the calculation or partially discounted by the use of a ratio, if the same basis of calculation is employed for all condominium units in the condominium project, and that basis is disclosed in appropriate condominium documents furnished to each co-owner.

Village council means the elected governing body of the Village of Capac.

Waiver means a variation or exception from standards contained in the Village of Capac Condominium Ordinance.

Yard area as used in this chapter shall mean one of the following:

- (a) In the case of a condominium unit solely consisting of a building envelope, a yard shall be that area of open space between such building envelope and any adjacent forms of property ownership.
- (b) In the case of a condominium unit (site condominium) that includes a greater area than a building envelope, a yard shall be an open space between the lot lines of the condominium unit and the building envelope.

Yard area lines means:

Front yard area line means a line that demarcates the front yard of a condominium unit, but not including a side condominium unit lot line nor any line abutting the building envelope.

Rear yard area line means a line which demarcates the rear yard of a condominium unit, but not including a side condominium unit lot line nor any abutting building envelope.

Side yard area line means line(s) which demarcate the side yard of a condominium unit, but not including the front or rear condominium unit lot lines.

(Ord. No. 2003-05, § 2, 4-7-2003)

DIVISION 2.

FEES AND CHARGES

Sec. 25-6. Fees.

Preliminary and final condominium subdivision project review fees, planning fees, engineering fees, attorney fees, inspection fees, water and sewer connection charges and other applicable development charges shall be paid by the proprietor as may be provided for in this division, or by ordinance of the village.

The village council shall establish by resolution a schedule of fees to be charged to the petitioner/applicant with respect to application administration, planning, and engineering review, legal review, and final inspection of all condominium subdivision development projects.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-7. Performance guarantee.

The petitioner making application for a condominium subdivision project shall be required to post either a performance or cash bond in an amount deemed appropriate by the village engineer to be sufficient for the completion of the condominium subdivision project and all related improvements, said bond to be discarded upon final inspection and approval of the condominium subdivision project and all related improvements and payment of all related fees. The following shall be considered when requiring a performance guarantee:

- (1) The amount of the performance guarantee for improvement installation shall be equitable so that the proprietor is not required to provide an excessive amount, yet the public is sufficiently protected to ensure the improvement installations are properly constructed, installed and operational.
- (2) All estimates shall reflect an accurate value for the proposed improvements.
- (3) The estimated cost of the improvements shall include an added cost factor to provide for a margin of error and to cover inflation and other costs if the village is forced to complete the installation of the improvements some years in the future.

- (4) As improvements are completed and approved by the village, a rebate in reasonable proportion to the amount of work completed on required improvements may be returned to the developer.
- (5) Village shall set time periods to specify both the installation of improvements and beyond the completion of the improvement to ensure that the improvements are operating properly. The village engineer should provide reasonable time limits and they should be incorporated in this chapter. Some adjustment in time periods may be allowed through action by the village council.
(Ord. No. 2003-05, § 2, 4-7-2003)

DIVISIONS 3.

VIOLATIONS

Sec. 25-8. Violations.

Failure to comply with the provisions of this chapter shall constitute a municipal civil infraction. Any person whether such person be a proprietor or an agent of a proprietor, who violates this chapter or fails to comply with any of its provisions shall upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall constitute a separate offense.
(Ord. No. 2003-05, § 2, 4-7-2003)

ARTICLE II.

GENERAL REQUIREMENTS

DIVISION 1.

FILING INFORMATION

Sec. 25-9. Notice of intent.

It is the duty of the applicant to ascertain that the village clerk receive a copy of the notice of intent as required by section 71 of the Act, being MCL 559.171
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-10. Compliance with federal, state and local laws.

All condominium projects shall comply with applicable federal, state statutes and local ordinances.
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-11. Monuments required.

All condominium projects shall be marked with monuments as provided for in the Condominium Act and any Michigan Administrative Rules promulgated under said act. Performance bonds in an amount to be designated by the village engineer shall be provided.
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-12. Relocation of boundaries.

The relocation of boundaries, as described in section 48 of the Act, being MCL 599.149, shall conform to all applicable village codes and ordinances.
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-13. Information to be kept current.

All condominium projects shall be delivered to the zoning administrator or clerk of the village and shall be kept updated until such time as a certificate of occupancy for all units has been issued.
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-14. Amendment of master deed.

Any proposed amendment of a master deed which would have any direct or indirect effect upon any matter reviewed or approved under this chapter shall be reviewed and approved by the planning commission and village council prior to recording.
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-15. Issuance of zoning permit.

Final zoning authorization shall not be issued by the zoning administrator until the roads servicing the condominium project have been approved for construction by the village engineer, county and or applicable state agency have jurisdiction.
(Ord. No. 2003-05, § 2, 4-7-2003)

DIVISION 2.

ZONING ORDINANCE STANDARDS

Sec. 25-16. Lot size for conventional condominium projects.

In conventional condominium projects, the condominium unit is enclosed air space, such as condominium apartments.

- (a) The entire site must meet the minimum lot size requirements for the zoning district in which the parcel is located.
- (b) The buildings must be setback from the site's boundaries and the setback from other buildings as required in the zoning district the parcel is located in.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-17. Lot size for site condominium projects.

In site condominium projects the condominium unit is a piece of land that is sold as a building site just

as lots in a subdivision.

- (a) Each condominium unit in a site condominium project and its associated limited common element are considered equivalent to a "lot" and must meet the minimum lot size requirements for the zoning district in which the parcel is located.
- (b) The setbacks shall be from the outer edge of the "lot" consisting of a condominium unit and its associated limited common element;
- (c) And shall be consistent with the setbacks for principal structures in the zoning district in which it is located.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-18. Setbacks and boundaries.

The setback requirements for condominium buildings shall be determined as follows:

- (a) Single-family detached units:
 - (1) *Front yard setback.* One-half the approved or recorded street right-of-way, plus the current setback for the existing zoning district.
 - (2) *Side yard setback.* The distance between units shall be twice the zoned minimum of a typical single lot side yard setback. The distance from the unit to the limits of development shall meet the existing zoned minimum.
 - (3) *Rear yard setback.* The distance between the rear of two units shall be twice the zoned minimum rear yard setback of a typical single lot rear yard setback.
- (b) Multiple-family buildings shall meet the standards of multiple-family development.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-19. Lot splits.

Lots in a recorded condominium subdivision project shall not be further partitioned or divided unless in compliance with the zoning ordinance of Village of Capac and provided further, that any partitioning or dividing shall not be in conflict with the Condominium Act, and shall be approved by resolution of the village council. No zoning or building permit will be granted until the village council grants approval of the proposed lot split.

(Ord. No. 2003-05, § 2, 4-7-2003)

ARTICLE III.

PROCEDURE

DIVISION 1.

REVIEW PROCEDURES FOR CONDOMINIUMS

Sec. 25-20. Initial condominium conference.

It is suggested that the developer/proprietor meet informally with the village staff in order to review the process, procedures and standards outlined by the village. The developer/proprietor should become familiar with the following:

- (a) The developer/proprietor should obtain a copy of the Village Zoning Ordinance, the Condominium Ordinance and the village engineering standards.
- (b) Obtain the current zoning classification and master plan designation for the parcel being considered for development.
- (c) Investigate the adequacy of the existing public school system and the adequacy of public open spaces.
- (d) The adequacy of the current transportation system primarily influenced by the proposed condominium project.
- (e) The adequacy of the public infrastructure; including sanitary sewers, water systems, as well as existing drainage and necessary storm sewers.

(Ord. No. 2003-05, § 2, 4-7-2003)

DIVISION 2.

DEVELOPMENT PROCEDURE

Sec. 25-21. New projects--approval process.

Prior to the recording of the master deed required by section 73 of the Act, being MCL 559.173, the condominium project shall undergo the following processes:

- (a) Preliminary development site plan review.
- (b) Final development site plan review.

Approval of a condominium project under this chapter shall be required as a condition to the right to construct, expand or convert a condominium project in the Village of Capac.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-22. Preliminary development site plan review.

The proprietor may wish, at their option, to present a conceptual representation of the entire proposed condominium project to the village for information and feedback. Recommendations at this stage are meant to

provide direction and shall not infer approval at later stages. The proprietor shall indicate whether the condominium project will be considered a phased project.
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-23. Required information.

- (a) Project Name.
- (b) Name, address and telephone number of the proprietor.
- (c) Name, address and telephone number of the surveyor and or engineer preparing the plan.
- (d) Dates of preparation and revisions.
- (e) Proof of ownership or legal connection with the property.
- (f) The project property's tax identification number.
- (g) A metes and bounds legal description of the project accurate to the nearest 1/100 of an acre with the certification of a licensed surveyor.
- (h) Vicinity map showing the relationship of the project to the surrounding area within one mile of the proposed project.
- (i) Topographic map of the entire site with contours at two foot intervals and to include drainage patterns.
- (j) The location of all significant natural features, such as, but not limited to, water courses, floodplains, surface waters, wetlands (those regulated by the Department of Environmental Quality), slopes greater than 20 percent, existing soils, and woodland areas.
- (k) North arrow and scale of the plan (not greater than one inch equals 100 feet).
- (l) The proposed layout, numbers, dimensions, and building grades of each condominium unit.
- (m) Street names and rights-of-way widths and identification of public or private roads/streets.
- (n) Location of existing and proposed sewer, culverts, water mains, storm drains, other underground facilities, electrical, telephone and gas lines within or adjacent to the project site.
- (o) All easements by type and dimension (existing and proposed).
- (p) All parcels to be dedicated or reserved for public use or as private common areas.
- (q) A grading and drainage plan to include existing and intended cut and/or fill areas.

(r) Water supply plan.

(s) Sewage plan.

(t) Soil test borings prepared in accordance with village engineering specifications, to include an analysis of soil and ground water within and adjacent to the proposed site if the village engineer deems there is a possible threat to the environment or public health and safety. The necessary state agency review shall follow after the village has completed its review.

(u) A schedule of project area, density, height, bulk and any other placement regulation.

(v) A floodplain plan indicating the 100-year floodplain designation when the condominium project lies within or abuts a floodplain and/or wetland area.

(w) Location and extent of pre-existing landfills and known waste sites.

(x) Names, tax identification and land uses for all abutting properties along the boundary lines of the condominium project.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-24. Planning commission preliminary review and action.

(a) The proprietor shall deliver to the village clerk ten copies of the preliminary development site plan for the condominium project. Upon completion of a review by the zoning administrator, the village clerk shall deliver the preliminary site plan to the planning commission for their review.

(b) Preliminary site plan shall be delivered to the village DPW, fire department and police department for their respective reviews.

(c) Preliminary site plan shall be sent to the St. Clair road commission and the drain commission, as well as the Michigan Department of Transportation (if the proposed condominium project includes or abuts a state highway, or includes streets or roads that connect to a state highway and the Michigan Department of Environmental Quality (if the proposed condominium project abuts a regulated wetland, floodplain, lake or stream).

(d) The planning commission shall review the preliminary development site plan, all applicable ordinance provisions, all village, county and state department comments, consistency with the village master plan.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-25. Planning commission recommendation.

The planning commission shall forward a written recommendation to the village council along with any comments about the proposed condominium project. The planning commission shall forward their recommendation to the village council only after all reviewing bodies have completed and forwarded their respective comments and/or requirements. The planning commission shall either:

- (a) Recommend approval; or
- (b) If the preliminary site plan failed to meet all the requirements and or recommendations, the planning commission shall recommend denial of the application with a written statement of findings of fact.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-26. Village council review of planning commission recommendation.

The village council shall within 30 days after receiving the planning commission preliminary site plan recommendation provide a response by either:

- (a) Approve;
- (b) Deny; or
- (c) Remand back to planning commission for further review.

The village clerk shall notify the proprietor of the action taken by the village council and state the reasons for its action.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-27. Effects of preliminary development site plan review.

(a) Approval of the preliminary development site plan, with or without conditions, if any, shall be effective for one year from the date of the village council approval.

(b) The village council upon written request of the proprietor may grant extension of the one year approval.

(c) Before granting a request for an extension, the village council shall obtain recommendations from the planning commission.

(d) A written notice of any extension shall be sent by the village council to all other condominium approval authorities.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-28. Final development site plan review.

The proprietor shall submit twelve copies of the final development site plan to the village clerk accompanied by the required fees.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-29. Required information.

(a) Six copies of the master deed, bylaws, easements and deed restrictions, and shall contain the mandatory provisions required by sections 559.108, 109 section 37(3) and section 69 of the Act. Where applicable, the master deed shall contain the provisions required in sections 31, 32, 33, 34(2), 35, 36, 37(1)(2), 41, 45, 46, 47, 49 and section 121 of the Act, (R559.301) part 3, contents of a master deed.

(b) Six copies of construction plans as required in (R559.402 (d), (e), (f)) part 4.

(c) A complete condominium final development site plan that shall contain all of the following as required in (R559.402) part 4.

(d) All appropriate plans shall be labeled pursuant to section 66(2)(j) of the Act, being 559.166. (Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-30. Final development site plan review.

(a) The zoning administrator shall review the final development site plan for completeness and compliance.

(b) The zoning administrator shall forward the final development site plan and all relevant materials, including all local, county and state comment and or recommendations to the village engineer.

(c) If the submitted information is incomplete or deficient after review, the village clerk shall notify the developer in writing of the deficiencies.

(d) Upon completion of the final development site plan review by the village engineer, the report shall be forwarded to the planning commission for their final action. (Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-31. Planning commission final development site plan review and action.

(a) The proprietor shall deliver ten copies of the final development site plan to the village clerk. The village clerk will forward the ten copies to the planning commission for their review and action.

(b) The planning commission shall review the final development site plan submittal for conformance with the approved preliminary site plan. After the planning commission is satisfied that all requirements have been properly addressed, the final development site plan shall be forwarded to the village council along with the planning commissions recommendation and any comments. (Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-32. Village council final development site plan review and action.

The village council shall within 30 days of receiving the final development site plan and the planning commission's recommendation, approve, deny or remand it back to the planning commission for further review. The village clerk shall notify the proprietor of the action taken by the village council and state the reasons for their actions. (Ord. No. 2003-05, § 2, 4-7-2003)

DIVISION 3.

REQUIREMENTS AFTER APPROVAL

Sec. 25-33. Notice of proposed action.

Written notice of the approval by the village council regarding the condominium project shall be provided to the following: (when applicable) (MCL 559.171)

(1) Michigan Department of Environmental Quality.

(2) Michigan Department of Transportation.

(3) St. Clair Road Commission.

(4) St. Clair Drain Commission.

(5) The Administrator (Michigan Department of Consumer and Industry Services).
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-34. Amendments and replats.

Each condominium subdivision may be amended to reflect changes in the boundaries of a condominium unit, or the addition or elimination of condominium units, as provided for in section 67 of the Act, being MCL 559.167.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-35. As-built condominium subdivision development plans.

Not later than one year after the completion of construction of buildings and improvements represented on the condominium subdivision plans, (or after each phase of development), the developer shall cause an architect, engineer, or surveyor to prepare as-built drawings depicting the project as constructed, as required in (R 559.411) part 4.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-36. Effective date of final site plan approval.

Notwithstanding section 67 of the Act, being MCL 559.167, the village council may require the proprietor to provide documentation of the status of the condominium subdivision project every year from the date of its approval. If the proprietor has not completed development and construction of units or improvements in the condominium subdivision project that are identified as "need not be built" during a period ending ten years after the commencement of construction by the proprietor of the project, the developer, its successors, or assigns have the right to withdraw from the project all undeveloped portions not identified as "must be built".

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-37. Easements and dedicated thoroughfares.

A thoroughfare which is proposed to be dedicated to the municipality, county, or state shall be designated on the condominium subdivision plans as "propose dedicated", as required in (R 559.413) part 4. (Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-38. Recordation of the condominium subdivision development plan.

A condominium subdivision development plan shall be recorded in the county in which the project is located, as required in (R 559.415) part 4. (Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-39. Bylaws in a master deed.

Condominium bylaws in a master deed shall contain the mandatory provisions of section 54 of the Act, being MCL 559.154. (Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-40. Developers; compliance with mobile home commission act.

The proprietor of a mobile home condominium shall comply with the provisions of P.A. 419 of 1976, as amended, being MCL 125.1101 et seq., and the rules promulgated thereunder. (Ord. No. 2003-05, § 2, 4-7-2003)

ARTICLE IV.

VARIANCES

Sec. 25-41. Generally.

The village council shall have jurisdiction, as opposed to the zoning board of appeals, to grant or deny variances as herein provided:

- (a) The petitioner may appeal a decision by the zoning administrator, the village engineer or the department of public works if, in the opinion of the petitioner, an error has been made relative to any order, requirement, interpretation, or decision made concerning the administration of this chapter. The village council may reverse or affirm, wholly or in part, or may modify the order, requirement, interpretation, or decision as in its opinion what ought to be done, and to that end shall have all the powers of the administrative official from whom the appeal was taken.
- (b) Where by reason of the shape, topography or other extraordinary condition of the land, the use or development of the property immediately adjoining the development, the literal application of the requirements of this chapter would involve practical difficulties or would cause undue hardships.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-42. Procedures.

The concurring vote of a majority of the village council shall be necessary to grant variance and shall be conducted concurrently with the review and approval of either the preliminary and or final condominium subdivision development plan.
(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-43. Criteria.

The village council shall grant no variance unless one or more of the following conditions apply:

- (a) Special circumstances exist affecting the subject property, which are peculiar to the parcel and that the strict application of the provisions of this chapter would be clearly impractical or unreasonable and that these special circumstances did not result from the actions of the applicant.
- (b) The granting of the variance will not be detrimental to the public welfare or injurious to other property abutting or adjoining the new development.
- (c) The variance will not violate the provisions of the Condominium Act, P.A. 59 of 1978, as amended, being MCL 559.101 et seq.
- (d) The variance will not be contrary to the spirit or purpose of this chapter or the village comprehensive plan.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-44. Conditions.

When granting the variance, the village council may authorize a lesser variance than that requested or may prescribe conditions and safeguards to satisfy the intent of this chapter. A variance granted shall become null and void unless the final condominium subdivision development plan shall have been approved by the village council. A variance request shall not be resubmitted within one year from the date of the village council's action except on the grounds of new evidence or proof of changed conditions relating to the reasons for the denial of the original variance request found by the village council to be valid.
(Ord. No. 2003-05, § 2, 4-7-2003)

ARTICLE V.

DESIGN STANDARDS

DIVISION 1.

PROJECT PLAN LAYOUT

Sec. 25-45. Generally.

- (a) Condominium subdivision design standards set forth by the village and its engineer and director

of public works shall be followed.

(b) The development's streets shall conform to the master plan, if applicable, and shall be arranged to discourage through traffic while permitting adequate access for emergency services. The arrangement of streets shall provide for the continuation of existing streets from adjoining areas in the new development. Where adjoining areas are not subdivided, the arrangement of streets in the new development shall be extended to the boundary line of the tract to make provisions for the future extension of streets into the adjacent areas. Street rights-of-way widths shall conform to recommendations of the village engineer and director public works in conformance with applicable standards.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-46. Lots.

Lots within a condominium subdivision shall conform to the following standards:

(1) *Sizes and shapes.*

- (a) The lot size, width, depth and shape in any condominium subdivision proposed for residential uses shall be appropriate for the location and type of development contemplated.
- (b) Lot areas and widths and building setback line shall conform to at least the minimum requirements of the zoning chapter for the district in which the condominium subdivision is proposed.
- (c) Building setback lines shall conform to at least the minimum requirements of the zoning chapter. Staggering of the front and back setback lines is encouraged when condominium subdivision project propose more than 20 units.
- (d) Corner lots in residential condominium subdivisions shall be required to have at least a ten foot wider than the minimum width permitted by the zoning chapter.
- (e) Excessive lot depth in relation to width shall be avoided. A depth-to-width ratio of three to one shall be considered a maximum.
- (f) Lots intended for purposes other than residential use shall be specifically designed for such purposes, and shall have adequate provision for off-street parking, setbacks, and other requirements in accordance with the zoning chapter.

(2) *Arrangement.*

- (a) Every lot shall front or abut on a publicly dedicated street.
- (b) Side lot lines shall be at right angles or radial to the street lines.
- (c) Residential lots abutting major thoroughfares or collector streets, where marginal access

streets are not desirable or possible to attain, shall be designed with reverse frontage lots, or with side lot lines parallel to the major traffic streets.

- (d) Lots shall have a front-to-front relationship across all streets, where possible.
- (e) Where lots border upon bodies of water, the front yard may be designated as the waterfront side of such lot, provided that the lot has sufficient depth to provide adequate setback on the street side to maintain a setback for all structures equal to the front setback on the street side as well as on the waterfront side.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-47. Easements.

Easements shall be provided along front, side and or rear lot lines for utilities as required by public agencies or utility companies. Total width shall not be less than six feet along each lot, total of 12 feet for adjoining lots. The petitioner shall consult with the appropriate utility companies in developing the proposed development.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-48. Site grading and soil erosion control plan.

(a) A comprehensive grading and soil erosion/sedimentation control plan shall be submitted for any project over 150 cubic yards of excavation or filling, or involving a grade change exceeding 12 inches, regardless of acreage impacted and as otherwise provided for in the adopted village design standards.

(b) Topographic plans shall be prepared for all projects and shall include information as to the on-site soils, natural features and all existing man-made features.

(Ord. No. 2003-05, § 2, 4-7-2003)

DIVISION 2.

IMPROVEMENTS

Sec. 25-49. Installation of improvements.

(a) *Financial sureties.* Prior to the undertaking of the installation of any improvements required by this chapter, the proprietor shall deposit with the village clerk cash, a certified check or irrevocable bank letter of credit running to the village, whichever the proprietor selects, or a corporate surety bond acceptable to the village council, in an amount set by the village council upon recommendation of the village engineer, to ensure faithful and satisfactory completion of all improvements required by this chapter within a time period set by the village council when the final plat is approved.

(b) *Proprietor requirements.* Improvements required to be installed by the proprietor include bituminous or concrete street, integral concrete curb and gutter, concrete sidewalks, water mains, sanitary sewers, stormwater collection systems, street trees, street names and traffic control signs, monuments, and where applicable, street island landscaping, and all necessary appurtenances to these improvements, as provided

for in the adopted village design standards. The proprietor shall also cause to be installed improvements including, but not limited to, the following: underground electrical service, underground telephone service and street lighting with underground feeder service.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-50. Water system.

When a proposed condominium subdivision project is located within, adjacent to or reasonably near the service area of a public water supply system, water mains, fire hydrants and required water system appurtenances shall be constructed in such a manner as to adequately serve the project, both for domestic use and fire protection.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-51. Sanitary sewer system.

When a proposed condominium subdivision project is located within, adjacent to or reasonably near the service area of an available public sanitary sewer system, sanitary sewers and other required appurtenances thereto shall be installed in such a manner as to serve the project.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-52. Storm sewer drainage systems and stormwater detention or retention system.

(a) An adequate storm sewer drainage system including necessary storm sewers, catch-basins, manholes, culverts, bridges and other appurtenances shall be required in all condominium subdivision projects.

(b) A detention basin shall mean an area to provide storage of water for short periods of time before releasing it to a natural water course at a restricted flow rate and a retention basin shall mean as area to provide storage of water for a lengthy period of time, and drains through evaporation and or infiltration.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-53. Sidewalks and public walkways.

(1) *Major thoroughfares and collector streets.* A six-foot wide concrete sidewalk located within the street right-of-way one foot from the property line on the sides or sides of the roadway abutting the condominium subdivision project shall be provided.

(2) *Minor street sidewalks.* A four foot concrete sidewalk located within the street right-of-way one foot from the property line on each side of the roadway shall be provided. In those instances where no good purpose would be served by the provision of sidewalks, the village council may waive this requirement.

(3) *Public walkways.* Location of public walkways or crosswalks may be required by the commission to obtain satisfactory pedestrian access to public or private facilities such as, but not limited to, schools and parks. Widths of public walkways shall be at least four feet and shall be a dedicated right-of-way for this purpose.

(Ord. No. 2003-05, § 2, 4-7-2003)

Sec. 25-54. Street and pavement design.

- (a) All streets shall be designed in general accordance with the latest edition of the Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) Copies of all calculations and drawings verifying compliance with AASHTO and village design standards are to submitted for review by the village engineer.
- (b) For each development, a traffic circulation plan including trip generation/distribution models shall be developed. The traffic circulation plan shall consider adjacent properties and their development potential. Trip generation rates from the Trip Generation Handbook of the Institute of Transportation Engineers (ITE) or actual driveway counts from a similar development as approved by the village engineer may be utilized in the development of the traffic circulation plan.
- (c) Proposed streets shall be classified in a street hierarchy system with design tailored to their designed function.
- (d) The proposed condominium subdivision project shall conform to the various elements of the master plan and shall be considered in relation to the existing and planned major thoroughfares and collector streets.
- (e) The street layout shall provide for continuation of collector streets in the adjoining subdivision or of the proper projection of streets when adjoining property is not subdivided; or conform to a plan for a neighborhood unit drawn up and adopted by the commission.
- (f) The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.
- (g) Should the proposed condominium subdivision project border on or contain an existing or proposed major thoroughfare, the commission may require marginal access streets, reverse frontage or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.
- (h) Should a proposed condominium subdivision project border on or contain a railroad, expressway or other limited access highway right-of-way, the commission may require the location of a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the development of an appropriate use of the intervening land such as for parks in residential districts. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separation.
- (i) Half streets shall be prohibited, except where absolutely essential to the reasonable development of the condominium subdivision project in conformity with the other requirements of these regulations, and where the planning commission finds it will be practicable to require the dedication of the other half when the adjoining property is developed.
- (j) Should a proposed condominium subdivision project border upon or contain an existing or propose canal, channel or drainageway, the commission may require the location of a bridge facility suitable to

permit the unimpeded flow of water and the passage of waterborne vehicles.

(k) Right-of-way widths shall conform to at least the minimum requirements.
(Ord. No. 2003-05, § 2, 4-7-2003)