

ARTICLE XVIA

SITE CONDOMINIUMS OR CONDOMINIUM SUBDIVISIONS

SECTION 16A.01 PURPOSE

The purpose of this section is to set forth the standards for review of site condominiums or condominium subdivisions in all Zoning Districts, to provide for adequate standards for the master deed, deed restrictions, utility systems, public and private roads, site layout and design, and to achieve compliance with all regulations of the condominium act and this ordinance. Where any interpretation or application of a general requirement of the ordinance is in conflict with other definitions of Section 2.02, the definitions of Section 16.02.A listed under “Condominium Definitions” shall govern the interpretation and application under this Article.

SECTION 16A.02 CONDOMINIUM DEFINITIONS:

CONDOMINIUM DOCUMENTS - The master deed, recorded pursuant to the Condominium 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.

CONDOMINIUM LOT - The land in a condominium unit, together with the land in the adjacent and appurtenant limited common element, if there is such a limited common element.

CONDOMINIUM SUBDIVISION PLAN - The drawings and information prepared in accordance with Section 66 of the Condominium Act.

CONDOMINIUM UNIT - The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

CONSOLIDATING MASTER DEED - The final amended master deed for a contractible or 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 - A condominium project containing condominium units some or all of which were occupied before the filing of a notice of taking reservations under Section 7 of the Condominium Act.

EXPANDABLE CONDOMINIUM - A condominium project to which additional land may be added in accordance with this Ordinance and the Condominium Act.

MASTER DEED - 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, and all other information required by Section 8 of the Condominium Act.

NOTICE OF PROPOSED ACTION - The notice required by Section 71 of the Condominium Act, to be filed with South Haven Township and other agencies.

SITE CONDOMINIUM - A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed.

SECTION 16A.03 APPROVAL REQUIRED

Pursuant to authority conferred by Section 141(MCL 559.241) of the Condominium Act (P.A. 59 of 1978 as amended), preliminary and final site plans for all site condominiums or condominium subdivisions shall be approved by the Planning Commission. Final site plans shall be approved by the Township Board. In determining whether to approve a site plan for a site condominium, the Planning Commission and Township Board may consult with the Zoning Administrator, Township Attorney, Township Engineer, and Township Planner and others as deemed appropriate by the Planning Commission and Township Board, regarding the adequacy of the master deed, deed restrictions, utility systems and roads, site layout and design, and compliance with all requirements of the Condominium Act and this Ordinance.

SECTION 16A.04 GENERAL REQUIREMENTS

- A. The provisions of Article XXII, Site Plan Review, shall also apply to all Site Condominiums processed under this Article XVIA, except where the provisions included in Article XXII are in conflict with provisions of Article XVIA or which are in conflict with Public Act 59 of 1978, as amended, "The Condominium Act," in which case(s) the provisions of this Article XVIA and The Condominium Act shall prevail.
- B. No construction, grading, or other work shall be done on a site once the site plan review application has been filed until a final site plan has been approved, except with the express permission of the Planning Commission or the Township Board. No permits for erosion control, building construction, grading, or installation of water or sanitary sewerage facilities shall be issued for property in a site condominium development until a final site plan therefor has been approved by the Planning Commission and Township Board and is in effect. This requirement shall include contractible, conversion, and expandable condominium subdivisions.
- C. If a building, structure, or use to be placed on a condominium lot which requires site plan approval under Section 22.02, herein, a site plan for that building, structure, or use shall be approved in accordance with Article XVIA herein, before a certificate of zoning compliance may be issued.
- D. The South Haven Township Planning Commission shall have the authority to review and grant preliminary approval, approval with conditions or denial of preliminary site plans

for condominium subdivisions. The Planning Commission shall have the authority to recommend approval, approval with conditions or denial of a final site plan to the Township Board. The South Haven Township Board shall have the authority to approve, approve with conditions or deny final site plans for condominium subdivisions.

- E. Preliminary and final site plans shall be submitted, reviewed, and approved or denied in accordance with Article XXII and Article XVIA, provided, however that preliminary and final site plans shall not be combined for condominium subdivisions. A dimensionally stable copy of the as-built drawings shall be submitted to the Township Clerk and a second dimensionally stable copy shall be recorded with the Van Buren County Register of Deeds.
- F. Each condominium unit shall be located within a zoning district that permits the proposed use.
- G. For the purposes of this Ordinance, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located. In the case of a site condominium containing single-family detached dwelling units, not more than one dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use, except in a PUD district. Required yards shall be measured from the boundaries of a condominium lot. Ground floor coverage and floor area ratio shall be calculated using the area of the condominium lot.
- H. Each condominium lot shall be connected to public water and sanitary sewer facilities, where available, or shall have a well, septic tank, and drain field approved by the County Health Department, where public water and sanitary sewer services are not available. The well, septic tank, and drain field serving a condominium lot shall be located within that lot, as described in the master deed, except in a PUD district, in which this requirement may be waived by the Township Board as a part of its approval of the PUD rezoning petition/application.
- I. Relocation of boundaries between adjoining condominium lots, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
- J. Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.
- K. Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49

of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.

- L. All information required by this Ordinance shall be updated and furnished to the Zoning Administrator until applicable certificates of zoning compliance have been issued, as provided in Section 22.14 of Article XXII, herein.

SECTION 16A.05 PRELIMINARY SITE PLAN REQUIREMENTS

- A. A preliminary site plan shall be filed for approval at the time of a Notice of Proposed Action is filed with South Haven Township. In the event a Notice of Proposed Action regarding a condominium subdivision is filed with the Clerk, the Clerk upon receipt of the notice shall transmit the preliminary site plan drawings to the Township Planning Commission. No action is to be taken by the Township Board, until the Planning Commission has reviewed the final site plan drawings.
- B. The preliminary site plan shall include all land that the developer intends to include in the site condominium project.
- C. The preliminary site plan shall include all information required in Section 22.07 of Article XXII, herein, except in the case of a development that consists only of condominium lots and not buildings or other structures at the time of site plan application, the location and dimensions of condominium lots and all required yards, rather than individual buildings, shall be shown on the preliminary site plan.
- D. All items required in Section 22.07 of Article XXII are to be completed and presented at the time of the preliminary site plan submission.

SECTION 16A.06 FINAL SITE PLAN REQUIREMENTS

- A. A final site plan shall be filed for review for each phase of development shown on the approved preliminary site plan.
- B. A final site plan for any phase of development shall not be filed for review by the Planning Commission and Township Board unless a preliminary site plan has been approved by the Planning Commission and is in effect.
- C. A final site plan shall include all information required by Section 66 of the Condominium Act, and the master deed and bylaws. The final site plan shall also include all information required in Section 22.08 of Article XXII, herein, except in the case of a development that consists only of condominium lots and not buildings or other structures at the time of site plan application, the location and dimensions of condominium lots rather than individual buildings, and required yards shall be shown on the final site plan.

- D. The applicant shall provide proof of approvals by all County and State agencies required to review the condominium subdivision plan, including but not limited to the County Road Commission, County Drain Commissioner, County Health Department, and the Michigan Department of Natural Resources. The Planning Commission and Township Board shall not approve a final site plan until all County and State agencies required to review the condominium subdivision plan have approved the condominium subdivision plan.

SECTION 16A.07 REVISION OF CONDOMINIUM SUBDIVISION PLAN

If the condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission and Township Board before any building permit may be issued, where such permit is required.

SECTION 16A.08 PUBLIC AND PRIVATE ROADS

All roads within a site condominium shall be dedicated as public roads to the Van Buren County Road Commission and shall be developed to the design, construction, inspection, approval and maintenance requirements of the Van Buren County Road Commission. Each condominium lot shall have frontage abutting a public road as required by the regulations of the particular zoning district in which the condominium lot is located. In the event that the Van Buren County Road Commission refuses to accept dedication of a proposed road in an exclusively residential condominium, the applicant may apply to the South Haven Township Board for a permit to substitute a private road for the public road or any portion thereof, in accordance with the South Haven Township Public and Private Road Ordinance, and the amendments thereto, which will be found in Section 18.44 of this Ordinance by reference thereto.

SECTION 16A.09 AMENDMENTS TO MASTER DEED OR BYLAWS

Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the Planning Commission and Township Board before any building permit may be issued, where such permit is required. The Planning Commission and Township Board may require its review of an amended site plan if, in their opinion, such changes in the master deed or bylaws require corresponding changes in the approved site plan.

SECTION 16A.10 RELATION TO SUBDIVISION ORDINANCE

All site condominiums shall conform to the plan preparation requirements, design, layout, improvement standards, and the financial guarantee requirements of the South Haven Township Subdivision Regulation Ordinance, as amended, all of which are incorporated herewith by reference. The standards and requirements of the Subdivision Regulation Ordinance including the financial guarantees which apply to lots in a subdivision shall also apply to condominium lots. Nothing in this section shall be construed as requiring a site condominium to obtain plat approval under the Subdivision Ordinance or the Subdivision Control Act.

SECTION 16A.11 DEVELOPMENT AGREEMENT

The Planning Commission and Township Board may require, as a condition of approval, that the applicant enter into a development agreement with the Planning Commission and Township Board and the Township of South Haven, incorporating the terms and conditions of final site plan approval, and record the same in the Office of the Register of Deeds for Van Buren County.

SECTION 16A.12 ASSOCIATION AUTHORIZATION

Any application for a building permit for construction to be located in a general common element shall include written authorization by the Condominium Association for the application.

SECTION 16A.13 MONUMENTS

Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines. No building permits shall be issued until monuments are set.

The Zoning Administrator may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year, on condition that the developer deposit with the South Haven Township Clerk cash, a certified check, or an irrevocable bank letter of credit running to South Haven Township, in an amount as determined from time to time by resolution of the South Haven Township Board. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified. If the developer defaults, the Township Board shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans using the funds from the security deposit.

SECTION 16A.14 EASEMENTS AND RIGHTS-OF-WAY

Road rights-of-way shall be described separately from individual condominium lots and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing of public utilities. The developer shall dedicate easements to the appropriate public authority for all public water, sanitary sewer and storm sewer or drainage lines and appurtenances.

SECTION 16A.15 DESIGN SPECIFICATIONS

All improvements in a site condominium shall comply with the design specifications as adopted by the South Haven Township Board and any amendments thereto.

SECTION 16A.16 RATIFICATION OF ZONING ORDINANCE AND ONFLICTING PROVISIONS

The South Haven Township Zoning Ordinance, as amended, is hereby ratified and reaffirmed except to the extent inconsistent herewith of this Article XVIA. All conflicting provisions of said Zoning Ordinance, and any other ordinance of the Township of South Haven, which are inconsistent or conflicting with the Article XVIA within, are hereby declared to be nonapplicable to Site Condominiums. Should any provision of the within Article XVIA be declared to be unconstitutional, void or unenforceable by a Court of competent jurisdiction, for any reason, the remaining terms and provisions of the within Article XVIA and the other provisions of the South Haven Township Zoning Ordinance are hereby declared to be separate and severable, and the remaining unaffected provisions shall be sustained and enforced.