

Memorandum: October 13, 2008 – REVISED 2-11-09
To: Trowbridge Township Planning Commission
From: P. Hudson, AICP
Re: Suggested New Ordinance

Because of changes in both the Michigan Planning Enabling Act and recent legal decisions, several attorneys have recommended that plat and site condominium regulations for subdivisions be combined into one ordinance and that this should not be included in the zoning ordinance. I had originally included all the subdivision regulations in a proposed Chapter XX, however, because of these recent developments I have left Chapter XX marked (Reserved) and suggest that the Township adopt the following Ordinance. The text was recommended by your law firm.

The Planning Commission must hold a public hearing on this separate from the Zoning Ordinance public hearing.

**TROWBRIDGE TOWNSHIP
ALLEGAN COUNTY, MICHIGAN
ORDINANCE _____
ADOPTED: _____**

EFFECTIVE: Thirty (30) days following publication after adoption

An Ordinance to regulate and control the subdivision of land in Trowbridge Township pursuant to the Michigan Land Division Act (1967 PA 288, as amended); to regulate the development of land within the Township under provisions of the Michigan Condominium Act (1978 PA 59, as amended); and to repeal all Ordinances or parts of Ordinances in conflict herewith.

SECTION 1 – TITLE

This Ordinance shall be known as the “Trowbridge Township Subdivision /Site Condominium Ordinance”.

SECTION 2 - PURPOSE. The purpose of this Chapter is to regulate and control subdivisions of land pursuant to the Michigan Land Division Act (1967 PA 288, as amended); and to regulate the development of land within the Township under the provisions of the Michigan Condominium Act (1978 PA 59, as amended). The objective is to achieve the same characteristics and land use results as if the development and improvements were being proposed in accordance with general subdivisions, including all requirements of the Trowbridge Township Zoning Ordinance. It is the intent of the Township to insure that each type of project meets certain minimum standards, that the size of lots or building sites are equal to the minimum lot size of the zoning district in which the project is located, and to treat each type of development with consistent regulations.

SECTION 3 – DEFINITIONS

- A. Applicant, Owner, Proprietor and Subdivider are intended to be synonymous terms referring to the person or entity holding an ownership interest in land proposed for plat or site condominium consideration.
- B. Building Site. Within a condominium development a building site shall mean that portion of a lot or parcel which is a two-dimensional condominium unit of land (i.e., envelope, foot print), designed for the construction of a principal condominium building in addition to accessory condominium buildings. All building sites shall have access to a public or private street or road.
- C. Common Elements. The portion of a condominium project other than the condominium units.
- D. Condominium Project. A development or project consisting of not less than two condominium units established in conformance with, and pursuant to, the Condominium Act, Public Act 59 of 1978, as amended.
- E. Condominium Plan. The plan as required in this ordinance, including but not limited to, the survey and utility plans, building site, the existing and proposed structures and improvements including their location on the land.
- F. Condominium Unit. That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed of the project, regardless of whether it is intended for residential, office, industrial, business, recreational or any other type of use approved by the Michigan Department of Commerce or its successor agency for such projects.
- G. Consolidating Master Deed. The 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.
- H. Limited Common Elements. The portion(s) of the common elements reserved in the master deed of a condominium project for the exclusive use of less than all the owners of condominium units in the project.
- I. Lot. A single unit or division of land contained in a platted subdivision, whether it be numbered, lettered or otherwise designated, which has frontage on a public or private street or road.
- J. Master Deed. The legal document prepared and recorded in accordance with Public Act 59 of 1978, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

SECTION 4 – COMPLIANCE WITH ORDINANCE

All plats shall comply with the provisions of the Michigan Land Division Act (1967 PA 288, as amended), and with the provisions of this Ordinance. All site condominium developments shall comply with the provisions of the Michigan Condominium Act (1978 PA 59, as amended), and with the provisions of this Ordinance.

SECTION 5 - TENTATIVE APPROVAL (STEP 1 APPROVAL).

- A. Submission. Every person, firm or corporation submitting a preliminary site condominium plan or preliminary plat plan to the Township Board for tentative approval shall submit not less than ten (10) legible copies of the proposed preliminary plan. The preliminary plan shall be prepared by a Registered Civil Engineer, land surveyor or other person authorized by law. The copies must contain, at a minimum, the following information and fees:
1. Proposed name of the project.
 2. Full legal description to adequately describe the lots, parcels or building sites comprising the project.
 3. Names and addresses of the applicant, owner(s), and professional(s) who designed the project.
 4. Names and addresses of the proprietors and the ownership interest in each parcel of land included in the preliminary plan.
 5. Scale of the plan (maximum scale shall be 100 feet to one inch).
 6. Property lines of adjacent tracts of subdivided and un-subdivided land shown in relation to the tract being proposed for development, including those areas across abutting roads.
 7. Show relief of the area proposed to be developed with not more than four-foot (4') contour intervals.
 8. Indicate road layout and the type of street construction and drainage structures or facilities intended to be installed.
 9. Indicate lot or building site layout, showing size and shape of proposed lots or building sites.
 10. Indicate whether the proposed development will be served by sanitary sewer and/or water.
 11. Show the location of existing sewers, water mains, storm drains, and other underground utilities within or adjacent to the tract being proposed for development.
 12. Show the location of significant natural features such as natural water courses, bodies of water, stands of trees, and individual trees within the project's area having a caliper of twelve inches (12") or greater at a height of two feet (2') above existing grade.
 13. Indicate the general location and size of any flood plain possibly located within the area to be developed.
 14. Indicate the general methods proposed for storm water disposal.

15. When the proprietor owns and anticipates subdividing adjoining land, then a tentative plan showing the feasibility of the development of such adjoining land shall be submitted with the preliminary plan being submitted for approval.
 16. Include a letter from the Allegan County Road Commission and/or the Michigan Department of Transportation, where applicable, with the agency(ies) recommendations to the Township as to the suitability of the street layout and conformity to the location, alignment and construction requirements of the agency(ies).
 17. Include the fee established by resolution by the Township Board for the type of project being proposed.
- B. Planning Commission Review. Upon receipt of the proposed preliminary site condominium or preliminary plat plan for tentative approval, the Township Clerk shall forward a copy of the plan for review to the Township Planning Commission. Such plan shall be received by the Township **at least 30 days** prior to any scheduled Planning Commission meeting in order to qualify for inclusion on the agenda. **The Planning Commission shall not take action on a preliminary plat or preliminary site condominium without affording an opportunity for a public hearing thereon. A plat or condominium submitted to the Planning Commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time, and place of the hearing shall be sent to the person at the address by mail and shall be published in a newspaper of general circulation in the municipality. Similar notice shall be mailed to the owners of land immediately adjoining the proposed plat or condominium.** The Planning Commission shall review the preliminary plan for compliance with the applicable standards set forth in subsection “C” immediately below and shall make recommendations to the Township Board regarding the plan. The Planning Commission shall make its recommendations within **63** days of the Township’s receipt of the plan.
- C. Township Board Review. After receipt of the Township Planning Commission’s recommendations or subsequent to the passage of **63** days from the Township’s receipt of the plan (whichever occurs first), the Township Board shall examine the preliminary plan with such assistance and review by the Township Engineer and the Township Attorney as the Township Board shall require. The Township Board shall determine whether the proposed preliminary plan complies with all Township Ordinances and state statutes as well as makes adequate provision for the following:
1. Streets: Shall conform to the current edition of “Requirements and Specifications for Subdivision Development” issued by the Board of County Road Commissioners of the County of Allegan, Michigan, or its successor agency.

- a. Direct access to a county primary road or state highway shall be prohibited for all building sites or lots abutting such roads or highways. Where the proposed development abuts or contains a county primary road or state highway, all proposed lots or building spaces bordering on a state highway or county primary road shall have access to a subdivision street or a public or private road within the subdivision. The plat or condominium Master Deed shall contain a restriction requiring driveways to connect to the platted street or public/private road within the development only.
- b. Streets should intersect at 90 degrees or at least no less than 80 degrees. Intersections shall not be less than 250 feet apart from one another.
- c. The maximum length allowed for residential blocks shall be 800 lineal feet.
- d. All road rights-of-way within a development shall be not less than 66 feet in width. Dead-end streets in excess of 800 feet in length shall be prohibited, except upon a **variance** from the Township Board, to be granted only where the topography or the area, rivers, streams, or other natural conditions or prior development cause practical difficulties or unnecessary hardships in layout, and an **exception** can be granted without creating a safety hazard.
- e. A plat or condominium project creating a total of 50 or more units shall be developed so as to provide two (2) or more access streets.
- f. Street lighting shall be adequate to service the proposed development given its size and layout. The Township Board shall consider the recommendations of the applicable electrical utilities and of the Township Engineer in determining the adequacy of proposed street lighting.

2. Private Streets:

- a. Determination for Private Streets. Private streets may be permitted by the Township Board if it finds that private streets within the condominium project, subdivision, or plat will not adversely affect public health, safety or welfare. In determining the potential affects the Board shall consider:
 1. The number of dwelling units, building sites or lots to be served by such streets;
 2. The layout of the proposed development;
 3. Ability to access with emergency vehicles;
 4. Whether the street will serve as a link between different public roads.
- b. Design and Construction Requirements. All private streets or roads shall comply with the requirements of the Trowbridge Township Zoning Ordinance, specifically Chapter XVIII Fire Lanes and Private Roads Permitted, or as amended.

3. Lots: The minimum size of lots or building sites shall be in compliance with the minimum lot size requirements set forth in the **Trowbridge** Township Zoning Ordinance for the zoning district in which the condominium project, subdivision or plat is located.
4. General Provisions:
 - a. Privately held reserve strips controlling access to streets shall be prohibited,
 - b. Existing natural features which add value to residential development, that enhance the attractiveness of the community (such as streams, watercourses, historic spots and similar irreplaceable assets) should be preserved insofar as possible in the design of the plat or condominium development.
 - c. Lands subject to flooding or otherwise determined by the Township Board, the Michigan Department of Environmental Quality, the Michigan Department of Natural Resources, or their successor agencies, to be uninhabitable should not be developed for residential, commercial or industrial purposes. Such lands within a development may be set aside for other purposes such as parks and/or open space.
5. Township Board Decision.
 - a. The Township Board shall tentatively approve and note its approval on the copy of the preliminary plat plan/preliminary condominium plan, or tentatively approve it subject to conditions and note its approval and conditions on the copy of the preliminary plat plan/condominium plan, to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval, within the following time period, as applicable:
 1. Within **63** days after it was submitted to the Township Clerk if the development is a plat and a pre-application review meeting was held pursuant to Section 111(3) of the Michigan Land Division Act (P.A. 288 of 1967, as amended).
 2. Otherwise, within 90 days after it was submitted to the Township Clerk.
 - b. Tentative approval under this section confers upon the proprietor for a period of one year from the date of approval for development purposes of lot sizes, lot orientation, and street layout and application of the then-current plat/condominium regulations. The tentative approval may be extended if applied for by the proprietor and granted by the Township Board in writing.

SECTION 6 - FINAL APPROVAL OF PRELIMINARY PLAN (STEP 2 APPROVAL)

- A. Submission. Every person, firm or corporation which shall submit copies of a proposed preliminary plat plan or preliminary condominium plan to the Township Board for final approval shall submit the relevant data and fees including:
1. Evidence that all requirements imposed by the Township Board at the time of granting tentative approval have been incorporated into the proposed plan.
 2. Detailed working drawings showing grades, drainage structures, proposed utilities and road construction plans for public and/or private roads within and adjoining the proposed project. Prior to submitting copies of the preliminary condominium plan or preliminary plat plan to the Township Board for final approval, the developer shall document consultation with all public utilities that will be servicing the development to resolve any conflicts in location between public facilities and other improvements.
 3. A fee as established by resolution of the Township Board.
 4. Certification of statutorily required governmental agency approvals, including, if individual sewage disposal systems are proposed and public sewage facilities are not reasonably available, certification from the Allegan County Health Department as to the suitability of the land included in the development for use of such individual sewage systems.
- B. Standards for Approval. Upon receipt of all required copies of the preliminary condominium plan or plat plan for final approval, the Township Board shall examine the plan with such assistance and review by the Township Attorney and Township Engineer as the Board shall request. Upon completing its review the Township Board shall determine whether the plan complies with the requirements imposed by it at the time of tentative approval, has obtained the required statutory approval of other governmental agencies and, in addition, meets the following requirements:
1. All public roads shall be paved and constructed to the then existing Allegan County Road Commission standards.
 2. Permanent dead-end streets shall be provided at the closed end with a turn-around having an outside improved roadway diameter of at least 125 feet as measured from the centerline of the gutter or back of curb and a street property line diameter of at least 150 feet.
 3. All surface waters shall be adequately drained within the development by a separate system of drainage structures or through the connection of such separate systems to an adequate adjoining system. All such drainage systems shall conform to the requirements of the Allegan County Drain Commissioner.
 4. Connection to sanitary sewers and/or water mains may be required by the Township Board when the Township Board determines, in its discretion,

that sewers and/or water mains are reasonably available to the proposed development.

5. The proprietor shall make arrangements for all distribution lines of telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely through the residential areas. Electric distribution lines shall be defined in accordance with the rules and regulations promulgated by the Michigan Public Service Commission or its successor agency. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways. Private easements for underground utilities shall be shown on the preliminary site plan.
6. Storm water disposal methods proposed for the development shall be adequate to insure each building site and roadway shall not be flooded and that all necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.
7. No lot or building site, out-lot or land within the development may be isolated from a public highway, nor may any adjoining land of the proprietor or others be isolated from a public thoroughfare resulting in the creation of land-locked parcels. Such isolation may be avoided and direct access to a public street or highway be satisfied and accomplished through a dedicated easement for ingress and egress, and all public utilities, shown upon the plan, which easement shall be of suitable width of not less than twenty-four (24) feet assuring permanent access to such lot, out-lot or parcel of land.
8. The proprietor shall make arrangements for and assume the costs of the assignment of a street number for each lot or building site proposed to be included within the development.
9. Indicate the location of proposed street lights.
10. Floodplain.
Within any site condominium or plat, all areas subject to flooding or as shown on a Flood Insurance Rate Map (FIRM) shall be shown on the condominium site plan by a qualified engineer using the guidelines provided by the Federal Emergency Management Agency (FEMA). A Flood Hazard Area or area subject to flooding shall be delineated on the plan submitted for approval and on the "as-built plans" as well as within the recorded condominium master deed or plat. Final approval shall not be given until the Flood Hazard Area or area subject to flooding have been reviewed by the Michigan Department of Environmental Quality flood plain engineer for the Kalamazoo District and any deficiencies identified by the state engineer have been corrected.

Land subject to flooding should not be developed for residential, commercial or industrial purposes. Such lands within a development may be set aside for other purposes such as parks and/or open space.

- C. Approval: If the Township Board determines that the preliminary plat plan or preliminary condominium plan has obtained the required statutory approval of other governmental agencies and complies with the requirements set forth above in this Ordinance, the Township Board shall at its next meeting following plan submission or within 20 days from the date of submission, grant final approval of the preliminary plan which shall confer upon the proprietor for a period of two (2) years from date of approval the conditional right that the general terms and conditions under which said approval was granted will not be changed. Said two (2) year period may be extended in the discretion of the Township Board upon application by the proprietor.

SECTION 7 - FINAL APPROVAL OF FINAL CONDOMINIUM PLAN/ PLAT PLAN (STEP 3 APPROVAL).

- A. Submission: Every person, firm or corporation that shall submit a proposed final plat or condominium development plan to the Township Board for final approval shall also submit the following relevant data and fees:
1. An abstract of title or title insurance policy showing marketable title in the proprietor of the proposed final plat or condominium plan.
 2. Evidence that all requirements imposed by the Township Board at the time of preliminary approval have been incorporated into the proposed final plan/plat.
 3. A fee as established by resolution of the Township Board.
 4. A letter from the Allegan County Health Department confirming that construction of private sanitary facilities have been completed as shown on the proposed plat/plan.
- B. Township Board Review: The Township Board shall, at its next regular meeting or within 20 days from the date of submission, review the proposed final plan and grant final approval if it determines that all of the following have been satisfied:
1. All monuments required to be placed in the plat or condominium project have either been placed or a cash or equivalent deposit has been made with the Township and a Deposit Agreement executed by the proprietors.
 2. All roads, streets, bridges and culverts have been completed and installed or a cash or equivalent deposit has been made with the Township and a Deposit Agreement executed by the proprietors.
 3. If the plat or condominium project has any waterways or lagoons, etc., that all such waterways, etc., shall be installed or a cash or equivalent deposit made to the Township and a Deposit Agreement executed by the proprietors.
 4. If any flood plains are involved in the proposed plat or condominium project, then such flood plains shall be restricted as provided by the Condominium Act, and such restrictions shall be submitted to the Township Board for review and approval prior to recording and thereafter shall be recorded in the Office of the Register of Deeds as part of the Plat

- or Master Deed or contemporaneously with the recording of the Master Deed.
5. All utilities servicing the plat or condominium project have been installed and water and sanitary mains (if required) have been stubbed to the lot line or building line or a cash or equivalent deposit has been made with the Township Board in an amount sufficient to insure completion thereof within the time specified and a Deposit Agreement executed by the proprietors.
 6. All underground utility installations, including lines for street lighting systems, that traverse privately owned property shall be protected by easements granted by the proprietor and approved by the public utility. These easements shall be recorded as part of the Plat or Master Deed as private easements for public utilities or easements provided by separate instrument. Easements across lots or centered on rear or side lot lines provided for utilities shall be at least twelve (12) feet wide. These easements shall be direct and continuous from block to block.
 7. All public improvements, such as street lights, fire hydrants, sidewalks, parks, etc., that have been required by the Township Board, have been completed and installed and reviewed and approved by an engineer or a cash or equivalent deposit has been made with the Township sufficient in amount to insure completion within the time specified and a Deposit Agreement executed by the proprietors.
 8. The proposed final plat or condominium project complies with all applicable state statutes and Township Ordinances and has received the requisite statutory approval from other governmental agencies.
 9. That the Plat or Master Deed is executed by all required owners, has been properly recorded and has been filed with the Township before issuance of any building permits.

SECTION 8 - FAILURE TO COMPLETE A PUBLIC IMPROVEMENT

In the event the developer shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Township Board to proceed to have such work completed. In order to accomplish this, the Township Board shall reimburse itself for the cost and expense thereof by appropriating the security deposit that the developer has deposited with the Township or it may take such steps as may be necessary to require performance in accordance with the Deposit Agreement executed by the proprietors.

SECTION 9 - AMENDMENT

All amendments to the plat or condominium plan shall be submitted for review and approval under Sections 5, 6 and 7 above.

SECTION 10 - SUBDIVISION LOT DIVISION

After a plat has been recorded, platted lots may thereafter be partitioned or divided with the approval of the Township Board, after review and recommendation by the Planning Commission, into not more than four (4) parts, provided that the resulting lots or parcels or combinations of two (2) or more divided lots shall comply with the minimum lot size and width requirements in the Trowbridge Township Zoning Ordinance and provided further that such resulting lots shall each have direct access to a public roadway or private roadway constructed to the standards of this Ordinance, and also to public utilities necessary or required to service such lots, and provided further, that all such resulting lots shall conform in all particulars to the requirements of the Michigan Land Division Act and all applicable Township Ordinances.

SECTION 11 – VARIANCE PROCEDURE

Where there are practical difficulties or unnecessary hardships in carrying out the strict letter of this Ordinance, the Township Board shall have power in passing upon proposed condominium or plat projects to modify any of the terms and provisions of this Ordinance so that the spirit of the Ordinance shall be observed and public health, safety and welfare secured.

SECTION 12 – FEES

The Trowbridge Township Board is hereby given the authority to establish by Resolution at any public meeting a schedule of fees for the administration of this Ordinance provided that the same are reasonable and bear a reasonable relationship to the cost and expense of such administration and activity. The Township Board shall further have the right to amend such aforementioned Resolution from time to time within the foregoing limits of reasonableness.

SECTION 13 – VIOLATIONS AND SANCTIONS

- A. Nuisance Per Se. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance, is hereby declared to be nuisance per se subject to abatement as provided by law.
- B. Violation. A person who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under this Ordinance, or any permit or approval issued under this Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of the same, shall be deemed to be responsible for a violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or

otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

- C. Municipal Civil Infraction. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
-1 st Offense*	\$ 75.00	\$ 500.00
-2 nd Offense*	150.00	500.00
-3 rd Offense*	325.00	500.00
-4 th Offense*	500.00	500.00

*Determined on the basis of the date of commission of the offence(s).

Additionally, the violator shall pay costs which may include all expenses, direct or indirect, which Trowbridge Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 be ordered.

- D. Remedial Action. Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.

SECTION 14 – SEVERABILITY

Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part other than the part declared to be invalid.

SECTION 15 – REPEAL

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 16 – EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following publication, after adoption.

_____, Clerk
TROWBRIDGE TOWNSHIP, ALLEGAN COUNTY