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SITE CONDOMINIUM AND UTILITY EXTENSION ORDINANCE

An ordinance regulating site condominiums under the provisions of Act 59 of the Public Acts of 1978, as amended, and adopted under the provisions of Act 184 of the Public Acts of 1943, as amended, requiring the preparation and presentation of preliminary and final plans for such purposes; establishing minimum standards; providing for minimum improvements to be made or guaranteed to be made by the developer; setting forth the procedures to be followed by the Township Board in applying these rules, regulations, and standards; and prescribing penalties for the violation of its provisions:

Byron Township, Kent County, Michigan, does ordain as follows:

ARTICLE I

TITLE AND PURPOSE

1.1 SHORT TITLE. This Ordinance shall be known as the "Site Condominium and Utility Extension Ordinance" of the Township of Byron.

1.2 INTERPRETATION. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety, convenience and general welfare. It shall be administered to insure orderly growth and development, to protect and conserve land and natural features, and adequately provide for streets, utilities and other land improvements in the Township.

1.3 PURPOSE. The purpose of this Ordinance is to insure that plans for developments within Byron Township proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, shall be reviewed with the objective and intent of achieving the same characteristics and land use result as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288, of the Public Acts of 1967 as amended, including, without limitation, conformance with all requirements of the Byron Township Zoning Ordinance, as amended. Nothing in this Ordinance shall be construed as requiring a Site Condominium Subdivision to obtain approval under the Byron Township Land Subdivision and Utility Extension Ordinance of the Subdivision Control Act. This Ordinance is adopted to also accomplish the following:

- (1) To carry out the purpose and intent of the Condominium Act, PA 59 of the Public Acts of 1978, as amended.

- (2) To further the orderly layout and development of the Township.
- (3) To provide for and regulate the economical provision or extension of utility services, streets and other necessary land improvements.
- (4) To require that land be suitable and suitably improved for building sites.
- (5) To provide for adequate drainage.
- (6) To prevent the premature development of land; to provide for proper ingress and egress to lots.
- (7) To promote proper surveying, monuments and legal descriptions.
- (8) To provide for safe and convenient traffic circulation and traffic movement.
- (9) To insure against the creation of unsafe or undesirable conditions.
- (10) To conserve the value of property.
- (11) To regulate the density of development in relation to utility services for the protection of the public health.
- (12) To conserve energy and natural features.
- (13) To carry out the purpose and intent of the Township Master Plan and Zoning Ordinance.
- (14) To establish rules and procedures for the process of subdivision under said act.
- (15) To provide for the adoption of improvement standards.
- (16) To provide penalties for the violation of this Ordinance.
- (17) To provide for the variation of these rules and requirements.
- (18) To protect the health, safety and general welfare of the inhabitants of the Township and the public.

ARTICLE II

DEFINITIONS

2.1 DEFINITIONS. The following terms are defined both in the context of the Condominium Act and in a manner intended to make comparison possible between the terms of this Ordinance, the Land Subdivision and Utility Extension Ordinance, the Byron Township Zoning Ordinance, other Byron Township development regulations and the Condominium Act.

- (1) Board: The Byron Township Board.
- (2) Clerk: The clerk of the Township.
- (3) Commission: The Byron Township Planning Commission.
- (4) Condominium Structure or Building Envelop: The principle building or structure intended for or constructed upon a lot or condominium unit, together with any attached accessory structures, e.g., in a residential development, the condominium structure or building envelop would refer to the house and any accessory buildings.
- (5) Condominium Unit: That portion of the condominium project designed and intended for separate ownership interest and use, as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, or recreational use as a time-share unit, or any other type of use.
- (6) Lot(s): The same as Building Site(s) and that portion(s) of a condominium project designed and intended for separate ownership interest and/or exclusive use, as described in the Master Deed. Lot may be further defined as:
 - (a) A condominium unit as defined above, consisting of the area under a building envelope and the contiguous area around the building envelope; or
 - (b) The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit for the owner(s) exclusive use.
- (7) Master Deed: The legal document prepared and recorded pursuant to Act 59 of the Public Acts 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.

- (8) Site Condominium Project: A condominium project developed under Public Act 59 of 1978, as amended, comprising of more than two (2) condominium units which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended.
- (9) Setback - Front, Side, and Rear Yard: Front, side and rear yard setbacks shall mean the distance measured from the respective front, side and rear yard lines associated with the “condominium unit/building site” to the respective front, side and rear of the Condominium unit.
- (10) Proprietor: 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.
- (11) Street:
 - (a) Collector Street: A street designated as such on the Transportation Plan of the Master Plan, as amended, intended to serve high volume traffic movements within the Township.
 - (b) Major Street: A street designated as such on the Transportation Plan of the Master Plan, as amended, intended to serve high volume traffic movements across the Township.
 - (c) Minor Street: A local street intended primarily to serve adjacent neighborhood properties.
 - (d) Secondary Street: A street designated by the Planning Commission to serve moderate volume traffic within a development.
- (12) Utility Development:
 - (a) Complete Utility Development: A development in which arrangements have been made for both water service and sewage disposal by public utility systems.
 - (b) Delete (Amended October 13, 1997; Ord. No. 348)
 - (c) Delete (Amended October 13, 1997; Ord. No. 348)

(d) Delete (Amended October 13, 1997; Ord. No. 348)

(13) Yards:

- (a) Front Yard: An open unoccupied space extending across the full width of the condominium unit and lying between any street property line and the nearest foundation of any part of the building which is roofed or which is more than three feet in height.
- (b) Side Yard: An open unoccupied space on the same condominium unit with the building between the foundation of any part of the building and the side lot line, extending from the front yard to the rear yard.
- (c) Rear Yard: A space unoccupied extending across the full width of the condominium unit between the rear foundation of any building other than an accessory building, and the rear line of the condominium unit.

ARTICLE III

UTILITY EXTENSIONS

3.1 SERVICE AREAS. All site condominium projects that are approved must be serviced by public sanitary sewers and public water. All units within a site condominium project that is approved must have within the public road or street adjacent to each such lot a sanitary sewer line and water line which shall run to the lot line of each such lot. The size and specifications of such sanitary sewer lines and water lines shall be as specified by the Township and consistent and compatible with the system to which it is connected. (Amended October 13, 1997; Ord. No. 348)

3.2 UTILITY EXTENSIONS. Public water and sanitary sewer utilities may be extended under any of the following methods:

- (1) By petition to the Township Board by the owners of a majority of the area to be served by the extension.
 - (a) Upon receipt of the petition, the Township Board shall hold a hearing of necessity for the purpose of determining the need and desirability of the extension.
 - (b) If it is determined to proceed with the extension, the Township Board shall cause an assessment roll to be prepared to allow the cost of the extension and shall hold a public meeting to confirm the roll. The assessment roll shall thereafter be deemed active, with a set schedule of payments established.
- (2) By extension without petition. When the Township Board determines that an extension of a utility is necessary or desirable, but has not received a petition as noted above, it may cause or permit the utility to be extended with or without an active assessment roll, provided a suitable means of financing the extension is first established. Cost of the extension may be covered by any one or more of the following methods:
 - (a) Establishment of an active assessment roll.
 - (b) Establishment of a deferred assessment roll.

- (c) Establishment of a schedule of charges to be paid when properties are connected to the utility.
- (d) Payment by a single interested party - with or without a "payback" agreement.
- (e) Establishment of trunkage charges or other charges to be collected as properties are connected to the utility.
- (f) By utility service charges.
- (g) By construction as part of an approved site condominium project or property expansion.
- (h) By other means deemed desirable and adequate.

3.3 UTILITY SERVICE REQUESTS. Where utility services have been placed in public streets or public easements adjacent to a parcel, requests to connect to the utility shall be made to a representative of the Township designated by the Township Board. A connection permit shall be granted after all applicable charges, fees, assessments, agreements, or other arrangements have been paid or established as determined by the designated representative.

3.4 UTILITY CHARGES. The Township Board shall establish service charges adequate to pay the operational costs of a utility system and, if deemed desirable, to also pay for a portion of the capital investment, including depreciation charges. The service charges may be altered from time to time by the Township Board as deemed necessary to meet these obligations.

ARTICLE IV

PROCEDURES

4.1 APPROVALS. The following procedure must be completed in order for a site condominium to receive approval by the Township:

- (1) Site Condominium Preliminary Plan approval by the Planning Commission.
- (2) Site Condominium Preliminary Plan approval by the Township Board - Step I.
- (3) Site Condominium Preliminary Plan approval by the Township Board - Step II.
- (4) Site Condominium Final Plan approval by the Township Board.

Although not required, a proprietor is encouraged to undertake pre-application discussions with the Planning Commission.

4.2 PRE-APPLICATION DISCUSSION. Prior to the preparation of a Site Condominium Preliminary Plan, there should take place a pre-application discussion meeting between the proprietor and the Planning Commission. The purpose of this meeting is to inform the Planning Commission of a proprietor's intent to initiate a site condominium. On or before this meeting, the proprietor should submit the following to the Commission:

- (1) Several copies of a sketch, to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and lots; and the relationship of the proposed development to adjacent streets and neighboring properties.
- (2) A statement indicating how sanitary sewer and water service will be extended.

(Amended October 13, 1997; Ord. No. 348)

During the pre-application discussion meeting, it shall be the responsibility of the Planning Commission, insofar as information is available to it, to inform the proprietor about the following:

- (3) General requirements of this Ordinance and the Zoning Ordinance.
- (4) Planned or anticipated sites of parks and recreation areas and other public uses.

- (5) Utility system capabilities.
- (6) Planned or anticipated public improvements, including streets, utility extensions and the like.
- (7) Major street plans and potential problems relative to the natural features of the area including, but not limited to, flood plains, soil conditions, topography, and ground water tables.
- (8) Additional information which will assist the proprietor in proceeding in a reasonable and sound manner toward Final Plan approval.

Pre-application discussions are intended for information purposes only and do not constitute binding commitments on the part of the Township. Neither do they imply tentative approval of any subsequent preliminary plan. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.

4.3 SITE CONDOMINIUM PRELIMINARY PLANS. The Preliminary Plan approval procedure is intended to assure the Township that the proprietor is proceeding toward a Final Plan which will conform to all applicable regulations and be acceptable to the Township and other approving agencies. Approval of the Preliminary Plan by the Township shall not relieve the proprietor from obtaining the necessary approvals from other agencies having jurisdiction over other aspects of the site condominium project.

4.4 SUBMISSION OF SITE CONDOMINIUM PRELIMINARY PLANS.

- (1) Preliminary Plans shall be submitted to the Township Clerk at least three weeks prior to the next regular meeting of the Planning Commission. The following procedure shall be followed:
 - (a) Submit seven (7) copies of the Preliminary Plan to the Township Clerk.
 - (b) Submit to the Township Clerk a filing fee of fifty dollars (\$50.00) for the first two lots and five dollars (\$5.00) for each additional lot within the proposed project.
 - (c) The Township Clerk shall retain one (1) copy of the Site Condominium Preliminary Plan and, within seven (7) days from submission, forward two (2) copies to the Supervisor, one (1) copy to the Township Planner, one (1) copy to the Township Engineer, and two (2) copies to the Secretary of the Planning Commission.

- (2) In order to accomplish the necessary review, the proprietor or his agent is encouraged to be present at all meetings of the Planning Commission and the Township Board at which the Site Condominium Preliminary Plan will be reviewed. The plan shall be reviewed by the Supervisor, Planner and Engineer who shall report to the Planning Commission on any suggestions or recommend changes.

4.5 PLANNING COMMISSION REVIEW. The Planning Commission shall review the Site Condominium Preliminary Plan and the comments of the Supervisor, Planner and Engineer. Particular attention shall be given to the requirements of Article V of this Ordinance. If the Site Condominium Preliminary Plan meets the requirements of this Ordinance, the Planning Commission shall give it Preliminary Approval. The Secretary of the Planning Commission shall forward one (1) copy of the Site Condominium Preliminary Plan along with a notation indicating Preliminary Approval and any recommendations to the Township Board for Step I approval.

If the Site Condominium Preliminary Plan does not meet the requirements of this Ordinance, the Planning Commission shall:

- (1) Deny Site Condominium Preliminary Plan approval and setting forth its reasons in writing; or
- (2) Grant Site Condominium Preliminary Plan approval contingent upon completion of the revisions as noted.

The Secretary of the Planning Commission shall forward one (1) copy of the Site Condominium Preliminary Plan along with the Planning Commission's recommendations to the applicant and one (1) copy to the Township Board.

4.6 TOWNSHIP BOARD STEP I REVIEW, SITE CONDOMINIUM PRELIMINARY PLAN. After receipt of the Site Condominium Preliminary Plan and recommendations from the Planning Commission, the Township Board shall consider the Preliminary Plan at its next meeting or within 20 days from the date of receipt from the Planning Commission.

- (1) The Township Board shall consider the Site Condominium Preliminary Plan along with the recommendations of the Planning Commission, Supervisor, Planner and Engineer. If the plan meets the Site Condominium Preliminary Plan requirements of this Ordinance, the Board shall grant Step I Site Condominium Preliminary Plan approval. The Township Clerk shall sign the plan with the notation that it has received Step I approval:

- (a) That the general terms and conditions under which Step I approval was granted will not be changed by the Township.
 - (b) That the lot sizes, lot orientation, and street layout have been approved.
 - (c) That Step I approval may be extended if applied for by the proprietor prior to the one (1) year expiration date and granted by the Township Board in writing.
- (2) If the Site Condominium Preliminary Plan substantially meets the requirements of this Ordinance, the Township Board may grant conditional approval of Step I, such approval being conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step I. Upon the submission of such changes, revisions or additional material, the Site Condominium Preliminary Plan shall be granted unconditional Step I approval and the proprietor shall be so notified.
 - (3) If the Site Condominium Preliminary Plan does not substantially meet the requirements of this Ordinance, the Township Board shall deny Step I approval and so notify the proprietor along with the reasons therefore.

4.7 TOWNSHIP BOARD STEP II REVIEW, SITE CONDOMINIUM PRELIMINARY PLAN. After the Township Board has granted Step I approval, the proprietor shall submit two (2) copies of the Site Condominium Preliminary Plan to the Township Board for Step II review. The proprietor shall also submit the following:

- (a) A list of all reviewing authorities certifying that the list shows all authorities as follows:
 - County Road Commission
 - County Drain Commission
 - Michigan Department of Transportation
 - Michigan Department of Natural Resources
 - Michigan Water Resources Commission
 - County Health Department
 - Others as deemed appropriate by the Township Board
- (b) A copy of each review or site report by the above noted authorities after their approval has been secured, provided that approval is required by State statute or regulation.

- (c) A draft copy of the Master Deed.
- (1) The Township Board shall consider the Site Condominium Preliminary Plan and the above noted material and, if found to be in compliance with the terms of this Ordinance, shall grant Step II approval. Step II approval shall give the proprietor the following rights for a period of two (2) years from the date of approval:
 - (a) That the general terms and conditions under which Step II approval was granted will not be changed and the proprietor may proceed with the installation of required improvements.
 - (b) That the proprietor may submit all or parts of the Step II approved Site Condominium Preliminary Plan as a Site Condominium Final Plan in accordance with the Condominium Act, as amended, and this Ordinance.

The two (2) year period may be extended if applied for by the proprietor and grant by the Township in writing. Written notice of the extension shall be sent by the Township Clerk to the other approving authorities.

- (2) If the Site Condominium Preliminary Plan substantially meets the requirements of this Ordinance, the Township Board may grant tentative approval of Step II, such approval being conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step II. Upon the submission of such changes, revisions, or additional material, the Site Condominium Preliminary Plan shall be granted unconditional Step II approval and the proprietor shall be so notified. The Township Board may, at its discretion, delegate final Step II review authority to the Township Planner and/or Engineer who shall be responsible for insuring that the conditions established for Step II approval have, in fact, been met. Once the Step II conditions have been met, the Township Board, shall grant final Step II approval. Final Step II Site Condominium Preliminary Plan approval shall also be noted on the copy of the Site Condominium Preliminary Plan to be returned to the proprietor.
- (3) If the Site Condominium Preliminary Plan does not substantially meet the requirements of this Ordinance, the Township Board shall deny Step II approval and so notify the proprietor along with the reasons therefore.

- (4) Installation of all site condominium project improvements authorized by Step II approval shall be in accord with the requirement of the appropriate agency or utility having jurisdiction. The following have jurisdiction in Byron Township:

Kent County Road Commission - streets, sidewalks, storm sewers

Kent County Drain Commission - drains and drainage from the plan

Kent County Department of Public Works - sanitary sewer and water main

Consumers Energy Company - electrical and street lights

Michigan Bell Telephone Company - telephone

Michigan Consolidated Gas Company - gas

4.8 SITE CONDOMINIUM FINAL PLAN APPROVAL. The proprietor shall prepare and submit a Site Condominium Final Plan containing the Master Deed as required by State Law and any additional documentation to be recorded with the Register of Deeds as approved by the Township Board as part of the preliminary plan approval shall be filed with the Township Clerk.

- (1) One (1) copy of as-built plans of all completed improvements shall also be included with this submission.
- (2) The Clerk shall submit the same to the Township Board at its next regular meeting for approval after review by the Township Engineer.
- (3) The Board shall approve or reject said Site Condominium Final Plan and associated material.
- (4) All provisions of the Site Condominium Final Plan which are approved by the Township Board must be incorporated, as approved, in the Master Deed for the condominium project. A copy of the Master Deed as filed with Kent County Register of Deeds for recording must be provided to the Township Clerk within ten (10) day after filing with the County.
- (5) Any proposed amendment of a Master Deed which would have any direct or indirect effect upon a matter reviewed or approved under this Ordinance shall be reviewed and approved by the Township Board prior to recordation, and subsequently filed with the Clerk.

ARTICLE V

PLAN DETAILS

5.1 PRELIMINARY PLAN. The Preliminary Plan shall be designed in accordance with the provisions of Articles VI, VII and VIII, the requirements of the County Health Department, the Drain Commission, the County Road Commission, the Department of Natural Resources, the Department of State Highways and Transportation, and the Water Resources Commission. The Preliminary Plan shall be drawn at a scale of not more than one hundred (100) feet to the inch and shall include or be accompanied by the following information:

- (1) The name of the site condominium project; the name and address of the proprietor; the name, address and seal of the surveyor; and a description of the property to be included.
- (2) A key map showing the location and position of the property and its relationship to surrounding streets and the surrounding area including existing zoning of abutting areas.
- (3) North arrow, scale, contour interval, and legend when appropriate.
- (4) Contour elevations adjusted to USGS datum at not more than five (5) foot intervals.
- (5) Where appropriate, established flood plain contours and elevations adjusted to USGS datum.
- (6) The location of all existing streets, lots, plats, public utilities, drains, streams or bodies of water on/or abutting the property.
- (7) The outlines, intended layout, and intended use of the entire property owned or represented by the proprietor. The following shall be included:
 - (a) Street and stub street right-of-way - location, width and curve radii.
 - (b) Proposed street names.
 - (c) Lot lines, lot line dimensions to the nearest foot, lot and block numbers, and lot areas to the nearest one hundred (100) square feet.

- (8) The location and dimensions of all existing or proposed easements or reserve strips, including electrical and telephone easements.
- (9) The locations and tentative sizes of proposed sanitary sewers, storm sewers and catch basins, water mains, culverts, bridges, ponding areas, ponds, lagoons, slips, waterways, lakes, bays, and canals.
- (10) Statements regarding:
 - (a) Intent to utilize public water and public sanitary sewage facilities. (Amended October 13, 1997; Ord. No. 348)
 - (b) Zoning and lot size requirements.
 - (c) Zoning requirements for front, side and rear yards.
 - (d) Size and type of street in accord with Kent County Road Commission standards.
 - (e) Intent to install gas, sidewalks, street lights, and shade trees.
 - (f) Use of waterways, rivers, streams, creeks, lakes or ponds.
- (11) The location and depth of soil boring tests and/or the location of percolation test holes where public sanitary sewer is not available for use.
- (12) Copy of the proposed Master Deed.

5.2 FINAL PLAN. The Site Condominium Final Plan shall be prepared as required by the Subdivision Control Act, as amended, and submitted to the Township Clerk in accord with Article 4.8.

The Final Plan shall also be accompanied by or show the following additional information:

- (1) One (1) set of approved as-built or final construction plans for all required improvements to be kept on file by the Township.
- (2) One (1) copy of the final Master Deed.
- (3) Deeds to any properties to be dedicated to the Township.

- (4) Performance or installation agreements for any improvements not controlled or regulated by other agencies, such as sidewalks, street lights, or shade trees.
- (5) One (1) copy of any financing arrangements between the Township and the proprietor for the installation of required improvements.

ARTICLE VI

LOT SIZES

6.1 DENSITY-UTILITY RELATIONSHIPS. For the purpose of this Ordinance, site condominium projects shall be classified as a Complete Utility Subdivision. To encourage economical and sound extension of utility service, to avoid premature concentrations of population, and for reasons of health and sanitation, the minimum required area of each lot shall increase as the availability of public water service decreases. This Ordinance may impose greater lot sizes than required by the Zoning Ordinance but may not decrease the minimums of the Zoning Ordinance. Lot splits in any zones need only conform to or exceed the minimum requirements of the Zoning Ordinance except when located upon a Major Street wherein the provision of Article VIII, General Provisions for all Site Condominiums, shall apply.

Public sanitary sewers and public water must be provided in all site condominium projects as stated in Section 3.1.

1. The cost of utility extensions inside or outside a site condominium project shall be the expense of the proprietor; providing, however, that when an extension outside a plat is required, a "pay-back" agreement may be negotiated with the Township where appropriate, to enable the developer to recoup some of his expense of extending the sewer or water line.

(Amended October 13, 1997; Ord. No. 348)

6.2 COMPLETE UTILITY SITE CONDOMINIUM PROJECTS. The minimum lot area and frontage requirements shall be as follows: (Amended October 13, 1997; Ord. No. 348)

- (1) Lot areas and widths in a Complete Utility site condominium project shall meet or exceed the minimum lot areas and widths specified in the Zoning District in which it is located, except that corner lots shall exceed the minimum lot width by at least ten (10) feet.

6.3 REZONING WHEN UTILITIES ARE PROVIDED. When sanitary sewer and water is provided to a site condominium project in any Service Area or Zoning District, the proprietor may request a rezoning to a similar Zoning District having smaller minimum lot size requirements. The Planning Commission and Township Board shall give due consideration to the presence of the utilities and the intent of this Ordinance when considering the rezoning request. (Amended October 13, 1997; Ord. No. 348)

ARTICLE VII

REQUIRED IMPROVEMENTS IN A SITE CONDOMINIUM PROJECT

7.1 COMPLETE UTILITY SITE CONDOMINIUM. Prior to the granting of Final Plan Approval for a Complete Utility Site Condominium project, the proprietor shall have installed, or have approved plans and agreements for the installation of, the following improvements:

- (1) Streets: A paved street of not less than thirty (30) feet in width conforming to Kent County Road Commission Construction Standards. A street designated as a Secondary or Collector street by the Planning Commission shall be constructed to Road Commission standards but shall not be less than thirty (30) feet in width.
- (2) Rights-of-Way: All rights-of-way and easements shall be graded across their entire width and length.
- (3) Water: A public water supply of a size specified by the Township Engineer connected to an existing public system and available at the property line of each lot within the site condominium project, together with fire hydrants in locations specified by the Township. (Amended October 13, 1997; Ord. No. 348)
- (4) Sewers and Drainage: Public sanitary sewers connected to an existing public system and available at the property line of each lot within the site condominium project, conforming to the size and specifications of the Township and compatible to the existing system, culverts, catch basins, and storm sewers of a size specified by the Kent County Road Commission and outletting from the site condominium project in a method, and to a drainage system, approved by the Kent County Drain Commissioner.
- (5) Electric and Telephone Conduits: Underground electrical and telephone conduits together with connection terminals available at each lot.
- (6) Street Lights: Street lights of a design and location approved by the Township and Consumers Energy Company.
- (7) Gas Service: Where available, gas distribution lines beneath the street prior to the paving and curbing of any street, at locations adequate to serve each lot

by connections thereto without the further installation of gas lines beneath such streets.

(8) Sidewalks:

- (a) Concrete sidewalks five (5) feet wide and four inches thick are required on both sides of all streets and stub streets without exception including adjacent to all cul-de-sacs.
- (b) All sidewalks shall incorporate dub-downs also known as "handicapped sidewalk curb cuts" from the curb to the intersection of the sidewalk.
- (c) Permits for construction of sidewalks shall be obtained from the Kent County Road Commission and shall be built to or exceed the requirements of this Ordinance and the standards of the Kent County Road Commission.
- (d) All sidewalks shall be constructed by the developer prior to final plan approval. Final plan approval can be given without construction of sidewalks provided not more than three (3) years have elapsed since the Township Board has granted Step II Preliminary Plan approval and provided there is posted by the developer with the township either a cash bond or an irrevocable letter of credit in an amount equal to the total cost of construction of the sidewalks as determined by the township engineer conditioned upon all sidewalks being constructed not later than three (3) years after the Township Board granted Step II Preliminary Plan approval and that the cash bond or irrevocable letter of credit can be used by the township to construct all such sidewalks if the sidewalks are not constructed within said time period and to pay all costs incidental to such construction including but not limited to engineering and attorney fees related thereto. All cash bonds shall be filed with the township clerk and shall be invested by the township treasurer in the Kent County Pooled Fund. All interest earned on the cash bond shall be subject to the same terms and conditions and rights as the principal amount of the cash bond. Any funds that remain after using the cash bond to construct the sidewalks and to pay all costs incidental thereto shall be returned to the developer. If the sidewalks are properly constructed prior to the three (3) year time period, the cash bond plus accrued interest earned thereon shall be turned over to the developer, or the letter of credit will be canceled.

- (e) After sidewalks have been constructed, the owner of a lot and any person or entity that takes out a building permit for any type of construction on a lot within the plan shall be responsible for repairing, restoring, or replacing any broken or damaged sidewalks adjacent to the property for which a building permit is issued such that they are in conformance with the standards required for original construction up and until an occupancy permit is issued.
- (9) Topsoil: No topsoil shall be removed from the site or used as fill. Topsoil moved during the course of construction shall be redistributed and stabilized by seeding, plantings, or other acceptable erosion control methods.
- (10) Street Signs: Street signs shall be placed at all intersections within or abutting the subdivision. The name, type and location shall be specified or approved by the Kent County Road Commission.
- (11) Monuments Required:

All condominium projects which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites shall be marked with minimums as provided in this subsection.

- (a) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily re-established by reference to minimums along the sidelines of the streets.
- (b) All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty-six inches long and completely encased in concrete at least four (4) inches in diameter.
- (c) Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project; at all points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets: at all angles of an intermediate traverse line and at the intersection of all limited common elements and all common elements.

- (d) If the required location of a monument is an inaccessible place, or where the locating of a minimums would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
- (e) All required monuments shall be placed flush with the ground where practical.
- (f) All lot corners shall be monument in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (1/2) inch in diameter, or other approved markers.
- (g) The Township Board may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the Township Clerk cash or certified check, or irrevocable bank letter of credit running to the Township of Byron, whichever the proprietor selects, in an amount not less than one hundred dollars (\$100) and the total amount shall be figured at the rate of twenty-five dollars (\$25) per monument. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

7.2 Delete (Amended October 13, 1997; Ord. No. 348)

7.3 VARIATIONS IN SITE CONDOMINIUMS. The following provisions may be waived by the Planning Commission upon request of the proprietor during the Preliminary plan review stage:

- (1) Where an existing metes and bounds parcel is being incorporated into a site condominium project, the width, depth and area requirements of this Ordinance may be waived for the specific parcel if the Planning Commission determines it will not have a detrimental effect on the site condominium project.
- (2) Topsoil provisions may be waived where it is demonstrated there is an excess of topsoil and that such excess will be used as topsoil in another location. In no event shall topsoil be used as fill.

7.4 COST DISTRIBUTION OF OVERSIZED IMPROVEMENTS. Where the Township requires that a given improvement be increased in size, length, or depth to meet the needs of

other areas, arrangements shall be made with the Township or its agent prior to installation, or prior to approval of, a Final Plan for the additional costs thereof.

Township funds for permanent investment in these improvements are limited, and nothing contained herein shall serve to obligate the Township for these costs. The extension of utilities or improvements smaller than required to meet the needs of an entire area is prohibited.

ARTICLE VIII

GENERAL PROVISIONS FOR ALL SITE CONDOMINIUMS

8.1 MASTER PLAN. All site condominium projects shall conform to the provisions and conditions of the Master Plan and Zoning Map for future development of the Township except as may be modified by this Ordinance.

8.2 STREETS. All streets shall conform in direction and alignment with the Master Plan and shall connect with existing streets without jogs or sharp angles. The design and location of streets shall not have the effect of precluding access to undeveloped adjacent property. The following requirements shall be met:

- (1) Curves: Curving streets shall have a centerline radius conforming to Kent County Road Commission standards.
- (2) Rights-of-Way: Minor and Secondary street rights-of-way shall be at least sixty-six (66) feet in width. Collector street rights-of-way shown on the Master Plan shall be at least eighty-six (86) feet in width or forty-three (43) feet from the centerline. Major street rights-of-way shown on the Master Plan shall be at least one hundred twenty (120) feet in width, or sixty (60) feet from the centerline. Alley rights-of-way, if permitted by the Planning Commission, shall be at least twenty (20) feet in width.
- (3) Stub or Outlet Streets: Stub streets or outlets to adjacent undeveloped property are required and shall be fully improved, including drainage and utilities as required for all other streets in the subdivision.
- (4) Dead-End Streets: Dead-end streets shall not exceed eight hundred (800) feet in length unless a paved outlet street is provided when required to adjacent property. There shall be a turn-around roadway with a minimum outside right-of-way radius of fifty (50) feet at the closed end, unless the Planning Commission and the Road Commission approve the use of a "T" or "Y" shaped turning area.
- (5) Reserve Strips: Reserve strips along Major streets may be required by the Planning Commission to be dedicated to the Township or County to prohibit access upon the major street from a specified lot or lots.

- (6) Street Names: All street names shall be subject to the approval of the Township Board and the Road Commission.
- (7) Off-sets: Off-setting streets at an intersection are prohibited unless the centerlines thereof are off-set at least one hundred twenty-five (125) feet. Such off-sets shall be subject to Township, County, and Road Commission approval.
- (8) Access: Any site condominium project or series of contiguous site condominium projects having forty (40) or more lots shall have a minimum of two (2) points of access to a secondary or a major road as designated in the Master Plan, in order to protect the future residents and existing residents of the Township in the event of an emergency, or in the event of the blockage of an access point and to promote safer traffic flow.

In a site condominium project or a series of contiguous site condominium projects containing forty (40) or more lots, the Planning Commission may require more than two (2) points of access to a secondary or a major road as designated in the Master Plan, where needed to protect the health, safety and general welfare of the inhabitants of the Township. In determining whether additional access points are required, the following shall be considered:

- (1) The size of the proposed site condominium project, the size of the area within the proposed site condominium project, and the size of the series of adjacent existing, proposed, or potential site condominium projects.
- (2) The number of lots of the proposed site condominium project, of the area within the proposed site condominium project, and of a series of adjacent existing, proposed, or potential site condominium projects.
- (3) The number of existing or proposed access points to the proposed site condominium project, to the area within the proposed site condominium project, and to a series of adjacent existing, or potential site condominium projects.
- (4) The distance of existing access point(s) to the proposed site condominium project, to the area within the proposed site condominium project, and to a series of adjacent existing, proposed, or potential site condominium projects.
- (5) The number of available potential access points to the proposed site condominium project, to the area within the proposed site condominium project and to a series of adjacent, existing, proposed or potential site condominium projects.

- (6) The volume of traffic that is placed or may be placed upon any street within a proposed site condominium project or adjacent, existing, proposed, or potential site condominium projects.

8.3 LOTS. Every lot shall face upon a dedicated street and shall have at least forty (40) feet of lot width at the right-of-way line. The following requirements shall be met:

- (1) Lot Depth: No lot shall be less than one hundred twenty-five (125) feet in depth at any point.
- (2) Shape: No lot shall be of such a shape as to require a possible variance from the provisions of the Zoning Ordinance.
- (3) Double Frontage: No lot shall be bounded on opposite sides by streets except that on a Major street the Planning Commission may require that abutting lots face upon a Minor street and that a reserve strip be provided to prohibit access upon such major street.
- (4) Major Street Frontage: No lot may be created upon a Major street unless it has a frontage of at least one hundred thirty (130) feet along the major street right-of-way.
- (5) Suitability: Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as soil formations, flood conditions, flood plains, high water table, or similar circumstances, the Planning Commission shall, after adequate investigation, withhold approval of such lots. Such lots shall be combined with other lots in such manner as to prohibit future lots from being created.

8.4 BLOCK LENGTHS. Blocks shall generally be between six hundred (600) feet and one thousand (1,000) feet in length. Side streets or outlets or streets to adjoining property may be required at a lesser interval if deemed necessary by the Planning Commission. Twenty (20) foot pedestrian crosswalk easements may be required by the Planning Commission with sidewalks at least five (5) feet in width.

8.5 PUBLIC EASEMENTS. Where a site condominium project is traversed by a water course or open drain, there shall be provided a public easement of such width as determined necessary by the County Drain Commission, but in no case less than twenty (20) feet in width. The Planning Commission shall require twenty (20) foot public easements along

the lot lines of a block for utility facilities, walkways, access to public land, or similar needs of the community. Easements may be required to be dedicated to the Township or County.

8.6 PUBLIC SITES AND OPEN SPACES. Where a proposed park, playground, school, street or other public use shown in the Master Plan is located in whole or in part in a site condominium project, the Planning Commission shall bring the same to the attention of the proprietor and the Township Board so that they may address the question of acquiring such areas by dedication, reservation or payment.

8.7 BUSINESS AND INDUSTRIAL SITE CONDOMINIUM. Where land is proposed as a site condominium project to be used for business or industrial purposes permitted by the Zoning Ordinance, the services and improvements to be required shall be fixed by the Planning Commission with reference to the use and density of the area and the type of business or industrial activity to be carried on in the area in accordance with the provisions of Section 7.1

8.8 PERFORMANCE GUARANTEES. The Township Board may require formal agreements or the posting of a bond or other surety sufficient to guarantee the proper performance of required improvements or materials to meet the provisions and intent of this Ordinance. Where a bond is required, it shall be a corporate surety bond, meeting the approval of the Township.

8.9 LAW. The requirements, procedures, regulations and powers set forth in the Condominium Act of 1978, as amended, shall apply except as provided by this Ordinance.

8.10 INSPECTION AND SPECIFICATIONS. The Township Board may establish inspection fees, inspection requirements, specification standards, and administrative procedures as provided by law and such shall be deemed to be requirements of this Ordinance. All plans and installations of improvements called for shall be subject to the approval of the Township or its agent, or such other competent person as designated by the Township. All inspection fees shall be paid by the proprietor before the Final Plan is signed by the Township unless adequate sureties or deposits to cover these expenses are given to the Township prior to Final Plan approval.

ARTICLE IX

GROUND AND PROCEDURE FOR A VARIANCE

9.1 GROUND FOR A VARIANCE. If the proprietor can clearly demonstrate that literal enforcement of this Ordinance is impractical or will impose undue hardship in the use of his land because of peculiar conditions pertaining to his land, the Township Board may permit such variances as, in its sound discretion, it believes to be reasonable and within the general purpose and policy of this Ordinance. A financial hardship or gain shall not of itself be sufficient.

In making the findings required below, the Board shall consider the recommendations of the Planning Commission, the location and condition of the proposed site condominium project, the nature of the proposed variance as compared with the existing use of land in the vicinity, the number of persons to reside or work in the proposed site condominium project, and the probable effect of the proposed site condominium project and variances on traffic conditions, public health, and safety in the vicinity.

No variance shall be granted unless the Board finds that all of the following conditions exist:

- (1) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land.
- (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.
- (3) The granting of the variance will not be contrary to State or County regulations or Township Ordinances, detrimental to the public welfare, or injurious to other property in the area in which said property is situated.

9.2 PROCEDURE FOR A VARIANCE. A petition for any such variance shall be submitted in writing by the proprietor at the time when a preplan or the Preliminary Plan is filed for the consideration of the Planning Commission, or thereafter to meet any requirement of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The Planning Commission shall make a recommendation by full majority vote to the Township Board upon any requested variance. Upon recommendation by the Planning Commission that a variance be disapproved, the Township Board may grant such variance upon the concurring vote of three members of the Township Board.

ARTICLE X

VALIDITY, ADMINISTRATION AND ENFORCEMENT

10.1 ADMINISTRATION. This Ordinance shall be administered by the Township Board. The rules, regulations and standards imposed by this Ordinance shall be considered to be the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Township; and in interpreting and applying them, primary consideration shall be given to these factors.

10.2 VALIDITY. If any article, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

10.3 ENFORCEMENT.

(1) This Ordinance shall be enforced by the Township Board.

(2) Penalty.

(a) Any person who shall sell or agree to sell any lot, piece or parcel of land without first having filed a proper document thereof when required by this Ordinance, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment in the county jail not to exceed one hundred eighty (180) days, or both, for the first offense, and for each subsequent offense, a like fine and imprisonment in the county jail not to exceed one year, or both. The term "agree to sell" shall not include an option to buy extended from the seller for a money consideration to the prospective buyer.

(b) Any person who violates any other provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisonment not more than ninety (90) days, or both such fine and imprisonment in the discretion of the court, together with the costs of prosecution of such offense. Every day such violation is permitted to exist shall constitute a separate offense.

- (3) Actions to Restrain or Prevent Violations. The Township Board may bring an action in its own name in the Circuit Court to restrain or prevent any violation of this Ordinance or any continuance of any such violation. Such action shall be brought in the county where the land is located, the defendant resides or has his principal place of business.

10.4 EFFECTIVE DATE. This Ordinance shall be effective thirty (30) days after publication in a newspaper circulating with Byron Township.

Adopted by the Township Board of Byron Township at a regular meeting held on the 23rd day of December, 1996.

Audrey Nevins, Clerk
Byron Township

The above Ordinance was published on January 7, 1997 in the SouthKent News , a newspaper of general circulation in Byron Township.

Audrey Nevins, Clerk
Byron Township

BYRON TOWNSHIP
SITE CONDOMINIUM AND
UTILITY EXTENSION ORDINANCE

EFFECTIVE DATE:

FEBRUARY 7, 1997

TOWNSHIP OF BYRON
COUNTY OF KENT
STATE OF MICHIGAN