

**GENEVA TOWNSHIP
VAN BUREN COUNTY, MICHIGAN
SUBDIVISION/SITE CONDOMINIUM DEVELOPMENT ORDINANCE #32
ADOPTED: May 9, 2006
Amendment #1 January 9, 2007**

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

GENEVA TOWNSHIP, VAN BUREN COUNTY, MICHIGAN, ORDAINS:

SECTION I TITLE

This Ordinance shall be known as the Geneva Township Subdivision/Site Condominium Development Ordinance.

SECTION II PURPOSE

The purpose of this Ordinance is to promote the public health, safety and welfare by facilitating the orderly layout and development of land into plats pursuant to 1967 PA 288; as amended; and to facilitate the orderly layout and development of land as "site condominiums" within the Township under the provisions of 1978 PA 59, as amended. It is the intent of the Township to insure that each type of project meets certain minimum standards, that the size of the lots or building sites are equal to a minimum lot size and to treat each type of development with consistent regulations.

SECTION III AUTHORITY

This Ordinance is enacted pursuant to the authority granted by the Michigan Land Division Act (1967 PA 288, as amended), the Michigan Condominium Act (1978 PA 59, as amended) and 1945 PA 246, as amended, which authorizes Township Boards to adopt Ordinances to secure the public health, safety and general welfare.

SECTION IV DEFINITIONS

For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

- A. *"Applicant"; "Owner"; "Proprietor" and "Subdivider"* are intended to be synonymous terms referring to the person or entity hold an ownership interest in land proposed for plat or site condominium consideration.
- B. *"Building Site"*. Within a condominium development the same shall mean that portion of a lot or parcel, which is a two dimensional condominium unit of land (i.e., envelope, foot print), along with any designated space above and/or below the land, designed for the construction of a principal building in addition to any accessory buildings. All building sites shall have access to a public or private street or road.
- C. *"Common Elements"*. The portions 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 Michigan Condominium Act, Act No. 59 of the Public Acts 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 for such projects.
- G. *"Consolidating Master Deed"*. The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space which final amended master deed fully describes the condominium project as completed.
- H. *"Contractible Condominium"*. A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the express provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.
- I. *"Health Department"*. The Van Buren/Cass County District Health Department.
- J. *"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.
- K. *"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.
- L. *"Master Deed"*. The legal document prepared and recorded pursuant to Act No. 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.
- M. *"Riparian Access Property"*. A property, building site, parcel or lot abutting a lake or pond, either natural or man-made, and used or intended to be used for the purpose of providing access to the lake or pond by pedestrian or vehicular traffic to and from offshore land regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form or dedication or conveyance.

SECTION V COMPLIANCE REQUIRED

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 VI APPROVAL PROCESS (OVERVIEW)

- A. Required Procedural Steps: This Ordinance provides for a proposed plat or site condominium project to be reviewed by the Township Board through a mandatory 3-step process, as follows:
 - * Step 1 --- preliminary plat/site condominium plan submitted for tentative approval.
 - * Step 2 --- preliminary plat/site condominium plan submitted for final approval.
 - * Step 3 --- final plat/site condominium plan submitted for final approval.

The Township Board may, in its sole discretion, hold a public hearing on a proposed plat at any mandatory step(s) of the process. Notice of any such public hearing shall be given by posting in the manner required by the Open Meetings Act and by such other means as the Township Board may determine.

- B. Optional Pre-Preliminary Plat/Site Condominium Conference. A potential applicant for plat or site condominium review may submit a generalized conceptual sketch of a

potential plat or site condominium for non-binding review and comment by the Township Board. This optional step in the process is recommended to facilitate early contact between the owner/developer and the Township to generally discuss the conceptual layout of the development, compliance with the substantive requirements of this Ordinance and any other applicable Township ordinance, and the mandatory review process prescribed by this Ordinance.

**SECTION VII TENTATIVE APPROVAL OF PRELIMINARY PLAT/SITE
CONDOMINIUM PLAN (STEP 1 APPROVAL)**

- A. Submission. Every person, firm or corporation which shall hereafter submit a preliminary site condominium plan or preliminary plat plan to the Township Board for tentative approval shall submit not less than five or more than ten legible copies of said proposed preliminary plan. Said preliminary plan shall be prepared by a Registered Civil Engineer, Land Surveyor or other person authorized by law. Said copies must contain, at a minimum, the following information and fees:
1. A relief of the area proposed to be platted or developed as a site condominium with not more than four foot (4) contour intervals.
 2. The location and layout of all streets, intended street names, the width and dimension of all street rights-of-way, and whether such streets are intended to be dedicated public streets or maintained as private streets.
 3. Indicate lot or building site layout, showing size and shape of proposed lots or building sites, as well as any dedicated common open space
 4. Indicate whether the proposed plat or site condominium development will be served by a public or private sanitary sewer and/or water system.
 5. In situations where the proprietor owns or plans to acquire and anticipates platting adjoining land or making it into a Site Condominium Development, the proprietor shall submit with the preliminary plat/condominium plan for tentative approval, a tentative plan showing the feasibility of the development of such adjoining land.
 6. A fee established by resolution of the Geneva Township Board pursuant to Section XIV of this Ordinance.
- B. Township Board Review. Upon receipt of said proposed preliminary condominium plan or plat plan for tentative approval, the Township Clerk shall place the matter on the Township Board agenda for the next scheduled Township Board meeting. The Township Board shall review the plan for its compliance with the applicable standards set forth in subsection "C", immediately below. The Township Board shall examine said preliminary plan with such assistance and review by the Township Engineer and the Township Attorney as the Township Board shall request.
- C. Standards for Review by Township Board. The Township Board shall determine whether said proposed preliminary condominium plan or plat plan complies with all Township Ordinances and state statutes as well as makes adequate provision for the following:
1. Streets.
 - a. The arrangement of streets shall provide for a continuation of existing streets from adjoining areas into the new condominium project or plat.
 - b. Where adjoining areas are not developed, the arrangement of streets in the proposed condominium project or plat shall be extended to the boundary line of the tract to make provision for the future projection of streets into the adjoining areas; provided, however, that minor streets

within the development shall be so laid out that their use by through traffic will be discouraged.

- c. Private streets may be permitted by the Township Board if the Township Board finds that private streets within the site condominium project or plat will not adversely affect public health, safety or welfare. In determining the same, the Township Board shall consider:
 - (i) The number of dwelling units, building sites or lots to be served by said streets;
 - (ii) The layout of the proposed development;
 - (iii) Ability to access with emergency vehicles;
 - (iv) Whether the street will serve as a link between different public roads.
 - d. All streets, whether public or private shall be built to county road commission standards.
 - e. A plat or condominium project creating a total of 50 or more units must be developed so as to provide 2 or more access streets.
 - f. Rights-of-way within or abutting such plats/condominium developments shall be not less than 66 in width unless approved otherwise by the Township Board upon a finding that a lesser width would be adequate to safely accommodate anticipated traffic. Permanent dead-end streets in excess of 660 in length shall be prohibited except upon prior approval of the Township Board, to be granted only where the topography of the area, rivers, streams, other natural conditions or the prior development of the area prevents a through street from being constructed.
2. Lots and building sites.
 - a. Proposed lots or building sites with either sewer or water service or both shall be no less than 90 feet in width at the building setback line and shall have a minimum of 12,000 square feet in area.
 - b. Proposed lots to be serviced by septic and wells shall have a minimum 100 foot width at the building setback line and a minimum 14,000 square feet in area.
 3. Open Space.
 - a. Open space within a plat or condominium development for the common use of occupants within such plat or development, exclusive of required setbacks, parking areas, street rights-of-ways, driveways or minimum lot or condominium site area requirement shall be accompanied by an agreement or restrictive covenant acceptable to the Township Board which shall contain a description of the open space and its purposes and the enforceable manner in which it is to be maintained, repaired and developed. Such agreement or restrictive covenant shall be in recordable form and shall be recorded by the developer in the records of the Van Buren County Register of Deeds at the time of recording of the plat or condominium development.
 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, water courses, historic spots and similar irreplaceable assets) should be preserved insofar as possible in the design of the plat or site condominium development.
5. Riparian Access
- a. Where a parcel of land is contiguous to a lake or other waterway, either natural or man-made, such parcel of land may be used as riparian access property or as common open space held in common by a subdivision, association or similar agency; or held in common by virtue of the terms of a plat; or provided for common use under deed restrictions of record; or owned by two (2) or more dwelling units located away from the water front only if the following conditions are met:
 - (i) The riparian access parcel shall contain at least seventy (70) feet of water frontage and a lot depth of at least one—hundred feet (100) for each dwelling unit or each single family unity to which such privileges are extended or dedicated. Frontage shall be measured by a straight line which intersects each side lot line at the water's edge.
 - (ii) In no event shall such parcel of land abut a man-made canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this Ordinance.

D. Township Board Decision.

- 1. 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/preliminary 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:
 - a. Within 60 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 (1967 PA 288, as amended).
 - b. Otherwise, within 90 days after it was submitted to the Township Clerk.
- 2. Tentative approval under this section confers upon the proprietor for a period of one year from the date thereof approval for development purposes of lot sizes, lot orientation, and street layout and application of the then-current plat/site condominium regulations. The tentative approval may be extended if applied for by the proprietor and granted by the Township Board in writing.

SECTION VIII FINAL APPROVAL OF PRELIMINARY CONDOMINIUM PLAN/PRELIMINARY PLAT PLAN (STEP 2 APPROVAL)

- A. Submission. Every person, firm or corporation which shall hereafter submit copies of a proposed preliminary plat plan or preliminary condominium plan to the Township Board for final approval shall submit the following relevant data and fees:

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 said condominium project or plat. 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 which will be servicing the development to resolve any conflicts in location between public utility facilities and other improvements.
3. A list of all authorities required by statute to review the preliminary plat plan/preliminary condominium plan and written approvals from all such authorities.
4. A fee established by resolution of the Geneva Township Board pursuant to Section XIV of this Ordinance.

B. Township Board Review. The Township Board shall examine the plan with such assistance and review by the Township Engineer, Township Fire Marshall and Township Attorney as the Township Board shall request. Upon completing its review, the Township Board shall determine whether said plat plan or condominium 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 rights-of-way shall be graded to the full width thereof for proper drainage and prospective future widening and improving. Road grading shall be accomplished so as to establish a .5 higher elevation at the boundary of the right-of-way than at the crown of the traveled roadway. All trees or other obstructions within the right-of-way which interfere with the grading and/or drainage shall be removed. The foregoing .5 elevation and tree and obstruction removal may be varied or adjusted by the Township Board upon recommendation of the Township Engineer where valuable trees or obstacles are involved and as long as drainage and safety will not be impaired.
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 100 as measured from the center line of the gutter or back of curb and a street property line diameter of at least 120. Temporary dead-end streets shall be provided at the closed end with a turn-around constructed the full width of the right-of-way.
3. 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 throughout the residential area. Electric distribution lines shall be defined in accordance with the rules and regulations promulgated by the Michigan Public Service Commission. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. Private easements for underground utilities shall be shown on the preliminary plan.
4. Storm water disposal methods proposed for the development must be adequate to insure each lot/building site and roadway will not be flooded and that all

necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.

- 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 the 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 IX FINAL APPROVAL OF FINAL CONDOMINIUM PLAN/PLAT PLAN (STEP 3 APPROVAL)

- A. Submission. Every person, firm or corporation which shall hereafter submit a proposed final plat or site condominium 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 merchantable title in the proprietor of the proposed final plat or site condominium.
2. A fee established by resolution of the Geneva Township Board pursuant to Section XIV of this Ordinance.

- 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 plat or site condominium 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 includes or abuts certain improvements other than streets and alleys, such as county drains, lagoons, slips, waterways, lakes, bays or canals, which connect with or are proposed to connect with or enlarge public waters, that all such improvements shall be installed or a cash or equivalent deposit made to the Township and a Deposit Agreement executed by the proprietors.
4. All utilities servicing the plat or condominium project have been installed and water and sanitary sewer mains have been stubbed to the lot line or building site 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.
5. All underground utility installations, including lines for street lighting systems, which 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, usually six (6) feet dedicated from each lot or parcel except side

lot easements three (3) feet wide granted for street lighting dropouts. These easements shall be direct and continuous from block to block.

6. All public improvements, such as street lights, fire hydrants, sidewalks, parks, etc., which have been required by the Township Board, have been completed and installed 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.
7. The proposed final plat or condominium plan complies with all applicable state statutes and Township Ordinances and has received the requisite statutory approval of other governmental agencies.
8. That the Plat or Master Deed is executed by all required owners.

SECTION X 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 which 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 XI BUILDING SITE/SUBDIVISION

After a plat or site condominium development has been recorded, platted lots/building sites may thereafter be partitioned or divided in accordance with the plan for the site condominium or plat approved by the Township Board. Lots or building sites shall adhere to the following requirements:

1. All resulting lots or building sites shall have individual direct access to a public roadway or private roadway.
2. All Resulting lots or building sites shall have access to those utilities necessary or required to service such lots or building sites.
3. All building sites shall have a minimum 40-foot front yard setback measured from the edge of the road right of way to the point of the main structure nearest the same at the street side.
4. All building sites shall have a minimum 40-foot rear yard setback measured from either the rear lot line or the regular high water mark of a natural or created watercourse or lake.
5. The highest point of any residential structure on a plat or site condominium shall not exceed 40 feet from the natural grade prior to construction. The only exception to this standard shall be television antennas for personal use.
6. Structures, including the main residential structure, attached or detached garages and shed or accessory buildings combined shall cover no more than 25% of the lot or building site for any development approved under this ordinance.
7. All building sites shall have a minimum 20 foot side yard setback on each side of the building site measured from the edges of the main structure at its greatest length.

SECTION XII VARIANCE AUTHORITY AND STANDARDS

- A. Variance Authority. 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 and in light of the circumstances of each specific case following these standards:
 - 1. Strict compliance with the ordinance requirement would result in a practical difficulty or unnecessary hardship because of the particular physical surroundings, shape, or topographical conditions of the tract of property involved, as distinguished from a mere inconvenience or economic hardship.
 - 2. The variance/waiver may be granted without detriment to the public safety, health, or general welfare, or damage to other property.
 - 3. The ordinance requirement at issue is not applicable to the specific situation at issue; or, the purpose is applicable but may be served even if a variance is granted.
 - 4. The conditions upon which the request for variance is based are unique to the subject property and not applicable generally to property outside of the proposed plat or site condominium.
 - 5. Approval of a variance/waiver will not in any manner result in a violation of any ordinance, or any other requirement of law.
 - 6. The conditions providing support for the variance/waiver were not created by the applicant or the applicant's predecessors in title.
- B. Variance Application Procedures. A request for a variance/waiver from any requirement of this Ordinance shall be submitted in writing by the applicant no later than when the preliminary plat is submitted for tentative approval. The request shall state the grounds for the requested variance/waiver and all the facts relied upon in support thereof. The Township Board may, at its discretion, hold a public hearing on a variance/waiver application.

SECTION XIII VIOLATION 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 a nuisance per se subject to abatement as provided by law.
- B. Violation. Any 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 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 or More Offense	500.00	500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which Geneva 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 XIV RESOLUTION FOR FEES

The Geneva Township Board is hereby given the authority to establish by Resolution at any public meeting a schedule of fees for the administering 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 the aforementioned Resolution from time to time within the foregoing limits of reasonableness.

SECTION XV AMENDMENTS

All amendments to the plat or site condominium plan, other than building site/lot divisions approved under Section X above, shall be submitted for review and approval under Sections VI, VII and VIII above.

SECTION XVI 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 thereof other than the part declared to be invalid.

SECTION XVII REPEAL

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. The Geneva Township Setback Ordinance which applies to the development of or building on a single parcel of land is hereby explicitly not repealed.

SECTION XVIII EFFECTIVE DATE

This Ordinance took effect on June 12, 2006, in accordance with MCL 41.184.

Roll Call Vote: Yes: 5
No: 0
Absent: 0

Nancy Ann Whaley Supervisor

Bridgette Gumpert Clerk

M. Jeffery Primmer Treasurer

Norman Funk Trustee

Audrey Krader Trustee

Original Ordinance Adopted May 9, 2006
Amendment #1 adopted January 9, 2007