

Article 4. SITE CONDOMINIUM AND UTILITY EXTENSION ORDINANCE

Section 8401. Title and Purpose.

Section 8401.1. Short Title. This Ordinance shall be known as the City of Frankfort Site Condominium and Utility Extension Ordinance.

Section 8401.2. 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 City.

Section 8401.3. Purpose. The purpose of this Ordinance is to insure that plans for developments within City of Frankfort 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 Land Division Act, Act 591, of the Public Acts of 1996 as amended, including, without limitation, conformance with all requirements of the City of Frankfort Zoning Ordinance, as amended. Nothing in this Ordinance shall be construed as requiring a site condominium development to obtain approval under the City of Frankfort Land Subdivision and Utility Extension Ordinance or the Land Division 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 City.
- (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 condominium units.
- (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 City 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 City and the public.

Section 8402. 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 City of Frankfort Zoning Ordinance, other City of Frankfort development regulations and the Condominium Act.

- (1) City: City of Frankfort, Benzie County, Michigan.
- (2) City Council: The Frankfort City Council.

Complete Utility Development: A development in which arrangements have been made for both water service and sewage disposal by public utility systems.

- (4) Condominium Act: Act 59 of the Public Acts of 1978, as amended.
- (5) Condominium Structure or Building Envelop: The principle building or structure intended for or constructed upon a 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.
- (6) 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.
- (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) Planning Commission: The City of Frankfort Planning Commission.
- (9) 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.
- (10) 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 to the respective front, side and rear of the condominium structure or building envelop.
- (11) Site Condominium Project: A condominium project developed under the Condominium Act comprising of more than two (2) condominium units which is not subject to the provisions of the Land Division Act, Act 288 of the Public Acts of 1967, as amended.
- (12) 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 City.
 - (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 City.
 - (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.
- (14) Yards:
- (a) Front Yard: An open unoccupied space extending across the full width of the condominium unit and lying between any street right-of-way and the nearest foundation of any part of the condominium structure or building envelop. For a condominium unit which abuts two (2) or more streets, the front yard shall be determined under the methods specified in the City of Frankfort Zoning Ordinance.

- (b) Rear Yard: A space unoccupied extending across the full width of the condominium unit between the rear line of the condominium unit and the nearest foundation of any part of the condominium structure or building envelop.
- (c) Side Yard: An open unoccupied space between the side line of the condominium unit and the nearest foundation of any part of the condominium structure or building envelop and extending between the front yard and the rear yard.

Zoning Administrator: The City of Frankfort Zoning Administrator.

Section 8403. Utility Extensions.

Section 8403.1. 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 condominium unit a sanitary sewer line and water line which shall run to the condominium unit line of each such condominium unit. The size and specifications of such sanitary sewer lines and water lines shall be as specified by the City and consistent and compatible with the system to which it is connected.

Section 8403.2. Utility Extensions. Public water and sanitary sewer utilities may be extended under any of the following methods:

- (1) By petition to the City Council by the owners of a majority of the area to be served by the extension.
 - (a) Upon receipt of the petition, the City Council shall hold a hearing of necessity for the purpose of determining the need and desirability of the extension.
 - (b) If the City Council decides to proceed with the extension, the cost of the extension shall be paid by the owners of the property benefited by the extension pursuant to a special assessment district established under applicable state law.
- (2) By extension without petition. When the City Council 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 a special assessment district.

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

Section 8403.3. Utility Service Requests. Where utility services have been placed in public streets or public easements adjacent to a condominium unit, requests to connect to the utility shall be made to a representative of the City designated by the City Council. A connection permit shall be granted after all applicable charges, fees, assessments, agreements, or other arrangements have been paid or established as determined by resolution of the City Council.

Section 8403.4. Utility Charges. The City Council 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 resolution of the City Council as deemed necessary to meet these obligations.

Section 8404. Procedures.

Section 8404.1. Approvals. For a site condominium to receive approval by the City, the proprietor must obtain Preliminary Plan approval by the Planning Commission and Final Plan Approval by the City Council. Although not required, a proprietor is encouraged to undertake pre-application discussions with the Planning Commission.

Section 8404.2. 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 Zoning Administrator. The purpose of this meeting is to inform the Zoning Administrator of a proprietor's intent to initiate a site condominium. On or before this meeting, the proprietor should submit the following to the Zoning Administrator:

- (1) Two (2) copies of a sketch, to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and condominium units; 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.

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

- (1) General requirements of this Ordinance and the Zoning Ordinance.
- (2) Planned or anticipated sites of parks and recreation areas and other public uses.
- (3) Utility system capabilities.
- (4) Planned or anticipated public improvements, including streets, utility extensions and the like.
- (5) 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.
- (6) 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 City. 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.

Section 8404.3. Site Condominium Preliminary Plans. The Preliminary Plan approval procedure is intended to assure the City that the proprietor is proceeding toward a Final Plan which will conform to all applicable regulations and be acceptable to the City and other approving agencies. Approval of the Preliminary Plan by the City shall not relieve the proprietor from obtaining the necessary approvals from other agencies having jurisdiction over other aspects of the site condominium project.

Section 8404.4. Submission of Preliminary Plats.

- (1) Preliminary Plans shall be submitted to the Zoning Administrator at least three weeks prior to the next regular meeting of the Planning Commission. The following procedure shall be followed:

- (a) Submit ten (10) copies of the Preliminary Plan to the Zoning Administrator.
 - (b) Submit to the Zoning Administrator a filing fee as established by resolution of the City Council.
 - (c) The Zoning Administrator shall retain one (1) copy of the Preliminary Plan and, within seven (7) days from submission, forward two (2) copies to the Superintendent, and seven (7) 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 City Council at which the Site Condominium Preliminary Plan will be reviewed. The plan shall be reviewed by the Superintendent, who shall report to the Planning Commission on any suggestions or recommend changes.

Section 8404.5. Planning Commission Step I Review, Preliminary Plan. After receipt of the Site Condominium Preliminary Plan, the Planning Commission shall consider the Preliminary Plan at its next meeting or within 20 days from the date of receipt from the Planning Commission, whichever is sooner.

- (1) The Planning Commission shall consider the Site Condominium Preliminary Plan along with the recommendations of the Superintendent. If the plan meets the Site Condominium Preliminary Plan requirements of this Ordinance, the Planning Commission shall grant Step I Site Condominium Preliminary Plan approval. The Zoning Administrator shall sign the plan with the notation that it has received Step I approval and the proprietor shall be so notified. Step I approval shall give the proprietor the following rights for a one (1) year period from the date of approval:
- (a) That the general terms and conditions under which Step I approval was granted will not be changed by the City.
 - (b) That the condominium unit sizes, condominium unit orientation, and street layout have been approved.
 - (c) That Step I approval shall be extended if the proprietor applies in writing to the Planning Commission for such extension prior to the one (1) year expiration date.

- (2) If the Site Condominium Preliminary Plan substantially meets the requirements of this Ordinance, the Planning Commission may grant conditional Step I approval, such approval being conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step I approval. 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 Planning Commission shall deny Step I approval and so notify the proprietor along with the reasons therefor.

Section 8404.6. Planning Commission Step II Review, Preliminary Plan.

- (1) After the Planning Commission has granted Step I approval, the proprietor shall submit ten (10) copies of the Site Condominium Preliminary Plan to the Planning Commission for Step II review. The proprietor shall also submit the following:
 - (a) A list certifying review by all of the following authorities:
 - 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 Planning Commission
 - (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.
- (2) The Planning Commission 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 shall be extended if the proprietor applies in writing to the Planning Commission for such extension. Written notice of the extension shall be sent by the Zoning Administrator to the other approving authorities.

- (3) If the Site Condominium Preliminary Plan substantially meets the requirements of this Ordinance, the Planning Commission may grant conditional Step II approval, such approval being conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step II approval. 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 Planning Commission may, at its discretion, delegate final Step II review authority to the City Superintendent 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 Planning Commission, 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.
- (4) If the Site Condominium Preliminary Plan does not substantially meet the requirements of this Ordinance, the Planning Commission shall deny Step II approval and so notify the proprietor along with the reasons therefor.
- (5) 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 the City of Frankfort:

The City of Frankfort DPW
Consumers Energy
Ameritech
Michigan Consolidated Gas Co.

Section 8404.7. Site Condominium Final Plan Approval. The proprietor shall prepare and file with the Zoning Administrator a Site Condominium Final Plan containing the Master Deed as required by the Condominium Act and any additional documentation to be recorded with the Register of Deeds as approved by the Planning Commission as part of the preliminary plan approval.

- (1) One (1) copy of as-built plans of all completed improvements shall also be included with this submission.

- (2) The Zoning Administrator shall submit the same to the City Council at its next regular meeting for approval after review by the City Superintendent.
- (3) If the Site Condominium Final Plan complies with the requirements of this Ordinance, the City Council shall approve said Site Condominium Final Plan and associated material and shall instruct the Zoning Administrator to certify such approval together with the date thereof.
- (4) All provisions of the Site Condominium Final Plan which are approved by the City Council must be incorporated, as approved, in the Master Deed for the condominium project. A copy of the Master Deed as recorded with the Benzie County Register of Deeds must be provided to the Zoning Administrator within ten (10) day after recording with the Register of Deeds.
- (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 Planning Commission prior to being recorded, and subsequently filed with the Zoning Administrator.
- (6) If the Site Condominium Final Plan and associated materials do not comply with this Ordinance, the City Council shall deny approval and shall specify the reasons therefor. The Zoning Administrator shall then notify the proprietor of the denial. The proprietor shall then arrange for corrections, modifications, or additional guarantees to satisfy the requirements of this Ordinance.

Section 8405. Plan Details.

Section 8405.1. Preliminary Plan. The Preliminary Plan shall be designed in accordance with the provisions of Sections 8406, 8407, and 8408 of this Ordinance, 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, condominium units, 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) Condominium unit lines, condominium unit line dimensions to the nearest foot, condominium unit and block numbers, and condominium unit 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.
 - (b) Zoning land area requirements for individual developments.
 - (c) Zoning requirements for front, side and rear yards.
 - (d) Size and type of street in accord with Benzie 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.

Section 8405.2. Final Plan. The Site Condominium Final Plan shall be prepared as required by the Condominium Act, as amended, and submitted to the Zoning Administrator in accord with Section 8404.7.

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 City.
- (2) One (1) copy of the final Master Deed.
- (3) Deeds to any properties to be dedicated to the City.
- (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 City and the proprietor for the installation of required improvements.

Section 8406. Sizes of Condominium Units.

Section 8406.1. 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 condominium unit shall increase as the availability of public water service decreases, as specified in the City of Frankfort Zoning Ordinance. This Ordinance may impose greater condominium unit sizes than required by the Zoning Ordinance but may not decrease the minimums of the Zoning Ordinance. Splits of any condominium units shall be allowed only if expressly allowed in the master deed. If the master deeds permits such splits, then those splits shall conform to or exceed the minimum requirements of the Zoning Ordinance, except when located upon a Major Street, in which case the provision of Section 8408, 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 8403.1. The cost of utility extensions inside or outside a site condominium project shall be the expense of the developer; provided, however, that when an extension outside a condominium project is

required to serve a condominium project, an agreement may be negotiated between the developer and the City, where appropriate, pursuant to which the City would agree to impose a utility extension fee in addition to other utility fees on those utility users that connect directly to the utility extension. The utility extension fees, less any administrative expenses agreed upon by the parties, shall then be paid to the developer to recoup some of the expense of extending the sewer or water lines to the condominium project.

Section 8406.2. Complete Utility Site Condominium Projects. The minimum condominium unit area and frontage requirements shall be as follows:

Condominium unit 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 condominium units shall exceed the minimum zoning lot width by at least ten (10) feet.

Section 8406.3. 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 zoning lot size requirements. The Planning Commission and City Council shall give due consideration to the presence of the utilities and the intent of this Ordinance when considering the rezoning request.

Section 8407. Required Improvements in Site Condominium Projects.

Section 8407.1. 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 Benzie 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 City Engineer connected to an existing public system and available at the property line of each condominium unit within the site condominium project, together with fire hydrants in locations specified by the City.
- (4) Sewers and Drainage: Public sanitary sewers connected to an existing public system and available at the property line of each condominium unit within the site

condominium project, conforming to the size and specifications of the City and compatible to the existing system, culverts, catch basins, and storm sewers of a size specified by the City DPW and outletting from the site condominium project in a method, and to a drainage system, approved by the City DPW.

- (5) Electric and Telephone Conduits: Underground electrical and telephone conduits together with connection terminals available at each condominium unit.
- (6) Street Lights: Street lights of a design and location approved by the City and Consumers Energy.
- (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 condominium unit 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 curb-cuts 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 City Superintendent and shall be built to or exceed the requirements of this Ordinance and the standards of the City DPW.
 - (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 Planning Commission has granted Step II Preliminary Plan approval and provided there is posted by the developer with the City 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 City engineer conditioned upon all sidewalks being constructed not later than three (3) years after the Planning Commission granted Step II Preliminary Plan approval and that the cash bond or irrevocable letter of credit can be used by the City 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 Zoning Administrator and shall be invested by the City treasurer in the City of Frankfort Combined Funds Account. 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 condominium unit and any person or entity that takes out a building permit for any type of construction on a condominium unit 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 Benzie 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 monuments 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 location of a monument 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 corners of condominium units 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 City Council 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 Zoning Administrator cash or certified check, or irrevocable bank letter of credit running to the City of Frankfort, whichever the proprietor selects, in an amount equal to twenty-five dollars (\$25.00) per monument but in no event less than \$100.00. 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.

Section 8407.2. 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.
- (3) 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.

Section 8407.3. Cost Distribution of Oversized Improvements. Where the City 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 City or its agent prior to installation, or prior to approval of, a Final Plan for the additional costs thereof.

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

Section 8408. General Provisions for all Site Condominiums.

Section 8408.1. 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 City except as may be modified by this Ordinance.

Section 8408.2. 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 Benzie 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) Street Names: All street names shall be subject to the approval of the City Council and the Road Commission.
- (6) 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 City, County, and Road Commission approval.
- (7) Access: Any site condominium project or series of contiguous site condominium projects having forty (40) or more condominium units 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 City 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 condominium units, 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 City. In determining whether additional access points are required, the following shall be considered:

- (a) 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.
- (b) The number of condominium units 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.
- (c) 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.
- (d) 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.
- (e) 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.

- (f) 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.

Section 8408.3. Condominium Units. Every condominium unit shall face upon a dedicated street and shall have at least forty (40) feet of width at the right-of-way line. The following requirements shall be met:

- (1) **Condominium Unit Depth:** No condominium unit shall be less than one hundred twenty-five (125) feet in depth at any point.
- (2) **Shape:** No condominium unit shall be of such a shape as to require a possible variance from the provisions of the Zoning Ordinance.
- (3) **Double Frontage:** No condominium unit shall be bounded on opposite sides by streets, except that on a Major street the Planning Commission may require that abutting condominium units face upon a Minor street and that access to such Major street be prohibited.
- (4) **Major Street Frontage:** No condominium unit 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 condominium units 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 condominium units. Such condominium units shall be combined with other condominium units in such manner as to prohibit future condominium units from being created.

Section 8408.4. 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.

Section 8408.5. 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 condominium unit 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 City or County.

Section 8408.6. 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 City Council so that they may address the question of acquiring such areas by dedication, reservation or payment.

Section 8408.7. Business and Industrial Site Condominiums. 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 8407.1

Section 8408.8. Performance Guarantees. The City Council 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 City.

Section 8408.9. Law. The requirements, procedures, regulations and powers set forth in the Condominium Act shall apply except as provided by this Ordinance.

Section 8408.10. Inspection and Specifications. The City Council 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 City or its agent, or such other competent person as designated by the City. All inspection fees shall be paid by the proprietor before the Final Plan is signed by the City unless adequate sureties or deposits to cover these expenses are given to the City prior to Final Plan approval.

Section 8409. Administration, Enforcement, and Validity.

Section 8409.1. Administration. This Ordinance shall be administered by the City Council. 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 City; and in interpreting and applying them, primary consideration shall be given to these factors.

Section 8409.2. Enforcement.

- (1) Misdemeanor.

Any person who sells or agrees to sell any condominium unit without first having recorded a master deed for the site condominium project as required by the Condominium Act or without obtaining the approval required by this Ordinance shall be guilty of a misdemeanor punishable by a fine of not more than \$500 and/or imprisonment in the County jail for a period not to exceed ninety three (93) days.

(2) Municipal Civil Infractions

Any person who violates any other provision of this ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994 amending public act 236 of 1961 being Sections 600.101-600.9939 of the Michigan Compiled Laws and shall be subject to a fine of not more than five hundred dollars (\$500.00). Each day a violation occurs under this subsection shall be considered as a separate violation.

(3) The Enforcement Officer

The Zoning Administrator is hereby designated as the authorized City official to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court for violations under subsection (2) above.

(4) Nuisance Per Se.

A violation of this ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

(5) Separate Court Action.

In addition to enforcing this ordinance as a criminal misdemeanor or through use of a municipal civil infraction proceeding, the City may initiate proceedings in the circuit court to abate or eliminate the nuisance per se or any other violation of this Ordinance.