

GERRISH TOWNSHIP
ROSCOMMON COUNTY, MICHIGAN

ORDINANCE NO. II-1-07

An Ordinance to amend the 1960 Gerrish Township Zoning Ordinance, as previously amended and commonly referred to as the Gerrish Township Zoning Ordinance, to correct, add and revise certain sections of said ordinance regarding condominium development, two single family dwellings on R-1 District lots, and outdoor eating areas in commercial districts.

**THE TOWNSHIP OF GERRISH,
ROSCOMMON COUNTY, MICHIGAN**

ORDAINS:

Section 1. Amendment of Section 4.6(B). Section 4.6(B) of the Gerrish Township Zoning Ordinance, regarding the temporary placement of tents, campers and recreational vehicles, is hereby amended to be deleted in full.

Section 2. Amendment of Section 4.16. Section 4.16 of the Gerrish Township Zoning Ordinance is hereby amended to read as follows:

SECTION 4.16 - CONDOMINIUM DEVELOPMENTS

A. Definitions: For the purposes of this Section, the following terms and phrases shall have the following meanings:

1. **Site Condominium:** A division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act, as amended.
2. **Condominium Subdivision Plan:** The drawings attached to the master deed for a condominium project which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium project, as well as the nature, location and size of common elements. A site condominium may not necessarily have vertical or volumetric limits.
3. **Condominium Unit:** That portion of a condominium project which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land or space which either encloses or is enclosed by a building structure. Any "condominium unit", or portion thereof, consisting of vacant land shall be equivalent to the term "lot" for the purposes of determining compliance of the condominium project with the provisions of this Ordinance pertaining to minimum lot area, minimum lot width, minimum lot frontage, and maximum building coverage.
4. See also Article III for definition of "condominium".

B. General: All development and land uses subject to the Michigan Condominium Act shall be subject to the requirements and standards of this Ordinance. The condominium form of ownership associated with such development and land uses shall not be a basis for variations to this Ordinance's provisions pertaining to, but not limited to, review procedures and site development standards. For example purposes only, multiple family development under a condominium form of ownership shall be subject to the same review procedures and standards for multiple family development where each unit is rented or leased including site plan review and setback and density standards.

C. Site Condominiums

1. **Applicability of District Regulations:** A condominium unit, including single family detached units, shall comply with all applicable site development standards of the district within which it is located, including use, setback, height, coverage and area requirements, and all other provisions of this Ordinance. A condominium unit in a site condominium shall be interpreted as that portion of the project intended to function generally similar to a platted subdivision lot and shall comply with the minimum lot area, width and yard setbacks of the District within which it is located.
2. **Review and Approval Procedures:**
 - a. **Zoning/Building Permit Required:** No grading or any other form of construction shall be initiated for a site condominium prior to the approval of a final site plan and issuance of a building permit. The future erection of any dwelling or other structure or building in the site condominium, not expressly approved as part of and illustrated on the final site plan, shall require an additional building permit prior to erection.
 - b. **Site Plan Approval Required:** The issuance of a building permit shall require the submittal and approval of a preliminary and final site plan pursuant to Article XII, Site Plan Review, and master deed and bylaw documents. The Planning Commission shall be the approving body.
 - 1) In addition to the preliminary and final site plan information required by Article XII, the applicant shall also submit information constituting a condominium subdivision plan, including the size, location, area, width, and boundaries of each condominium unit; building locations; the nature, location, and approximate size of common elements; and other information required by Section 66 of the Condominium Act, as amended.
 - c. **Master Deed/Bylaws Approval Required:** The applicant shall furnish the Planning Commission with copies of the proposed master deed and bylaws. These shall be reviewed for compliance with Township ordinances and to ensure that an assessment mechanism has been included to guarantee adequate funding for maintenance of all common elements. The common area funding responsibility of the association shall include any necessary drainage-ways and the cost to periodically clean out such drainage ways to keep them functioning as intended in the approved plans. The master deed shall clearly state the responsibility of the owner and co-owners and shall state that all amendments to the master deed must conform with Township, County, and state laws and regulations. The Master Deed shall also include any variances granted by Township, County, or State authorities and include a hold harmless clause from these variances. All provisions of the site condominium plan which are approved by the Planning Commission shall be incorporated, as approved, in the master deed for the condominium project.
 - d. **Issuance of Zoning/Building Permit:** Upon approval of the final site plan, by-laws and master deed, the applicant shall furnish the Township Clerk a copy of the final bylaws and master deed, and a copy of the approved site plan. Upon the satisfactory submittal of these documents, the Clerk shall direct the Building Inspector to issue a building permit.
 - e. **Changes:** Any changes to an approved site condominium including changes in the by-laws, master deed, or site plan, including changes in lot line or road configuration and the addition or relocation of buildings, shall require approval by the Planning Commission prior to such change.
3. **Building Permit:** No building shall be erected prior to the issuance of a building permit by the Building Inspector.
4. **Utilities:** The site condominium shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

5. Roads: All roads within a site condominium shall be designed and constructed in conformance with adopted standards of the Roscommon County Road Commission unless otherwise approved for private road construction pursuant to this Ordinance.

Section 3. Amendment of Section 6.1(C). Section 6.1(C) of the Gerrish Township Zoning Ordinance is hereby amended to read as follows:

- C. Single lots or groups of lots or parcels which are contiguous and under common ownership that form a building site, which said lots or parcels existed prior to the adoption of the Michigan Plat Act, (MCLA 560.101-293), and are in existence in such form as of August 10, 1999, must have a minimum of 9,600 square feet total area. Such a lot or lot group forming a building site that exceeds 9,600 square feet shall not be reduced below 12,000 square feet by division or reduction in number of individual lots in contiguous lot group.

Building sites formed after August 10, 1999, by lot groups or adding to existing lots in subdivisions created prior to January 9, 1990, must have a minimum of 12,000 square feet of land area.

All other lots or parcels created after January 9, 1990, shall be a minimum of 25,000 square feet. Lots created by new subdivisions since the adoption of Township Ordinance No. 9, The Subdivision Control Ordinance, shall comply with all dimensional requirements of the ordinance in effect at the time of platting.

All lots or parcels shall be limited to one single family dwelling per lot or parcel except that one additional single family dwelling may be erected on a lot or parcel, without the necessity to create a second lot or parcel for the additional dwelling, provided compliance with all of the following conditions and procedures:

1. The lot or parcel is a minimum of 50,000 square feet in area and was created prior to January 9, 1990.
2. The lot or parcel includes less than 130' of continuous road frontage along a public road or approved private road and from which it gains access.
3. The maximum number of single family dwellings that may be established on the lot or parcel shall be two (2).
4. All dwellings shall comply with the front, side and rear yard setback requirements of this District in relation to the lot lines of the lot or parcel.
5. Both dwellings shall provide for and maintain yard areas of sufficient dimension to comply with all front, side and rear yard setback requirements of this District in relation to their location to one another, as if an imaginary single straight property line existed between the two dwellings. Yard setbacks assigned to one dwelling may not be applied to meeting the setback requirements for the second dwelling. For instance, and by example purposes only, if a side yard setback of ten (10) feet is required according to Section 6.4(D), and the two dwellings are considered to have abutting side yards, then the two dwellings shall be a minimum of twenty (20) feet from each other where their side yards abut one another, and each dwelling shall be a minimum of ten (10) feet from the imaginary single straight property line between the two dwellings.
 - a. The Planning Commission shall be the determining body, within its reasonable discretion, of the front, side and rear yard locations of each dwelling based on such relevant factors as the orientation of the dwelling in relation to the road from which it gains access and the orientation of the two dwellings in relation to one another.
6. The establishment of a second single family dwelling on a lot or parcel shall require the approval of a plot plan by the Planning Commission. Such plot plan shall clearly delineate the existing and proposed locations of the dwellings, parcel setback lines and the imaginary single straight property line between the two dwellings referenced above in (5), dimensions from each dwelling to the parcel lines and to the imaginary single straight property line between the two dwellings, proposed driveway alignment to serve the dwellings, the existing and proposed septic drainfields to serve the dwellings, and documentation that the health department has approved the existing or proposed septic system for serving such dwelling(s). The Planning Commission may require additional information as may be necessary to ensure compliance with this Ordinance. The Planning Commission shall approve or conditionally approve the plot plan upon determination that the plot plan and all information associated with the

application complies with this Ordinance, and upon a determination that the arrangement of the dwellings does not undermine public health and safety including emergency access, nor unreasonably impact the use and enjoyment of abutting properties. Development of the parcel shall comply with the approved plot plan. No changes may be made to the plot plan except upon approval by the Planning Commission.

Section 4. Amendment of Section 6.4(F). Section 6.4(F) of the Gerrish Township Zoning Ordinance, regarding setbacks between dwellings on the same lot, is hereby amended to be deleted in full.

Section 5. Amendment of Article III. Article III (Definitions) of the Gerrish Township Zoning Ordinance is hereby amended by the addition of a new phrase and accompanying definition, to read as follows:

Outdoor Eating Area: An outdoor area designed or otherwise used for the serving or consumption of food or beverages, which exists in association with a building in which food or beverages are prepared and which may include indoor seating for the consumption of the same.

Section 6. Amendment of Section 7.2(I). Section 7.2(I) of the Gerrish Township Zoning Ordinance is hereby amended to read as follows:

- I. Eating and drinking establishments including outdoor eating areas of no greater than 1,500 square feet in area and the prohibition of no more than sixty (60) persons occupying such area, sitting or standing, and in which no alcohol is served or consumed. Establishments with a character of a drive-in or open front store are prohibited. Outdoor eating areas shall be subject to site plan approval and shall comply with the following site development standards:
 1. The boundaries of the outdoor eating area shall be clearly defined by fencing, planters, surface material, or other visual means.
 2. The outdoor eating area shall comply with the principal building setback requirements for the District in which it is located.
 3. No outdoor eating area shall be used or otherwise occupied except during normal indoor business hours.
 4. Outdoor tables and chairs shall be movable and all outdoor furnishings, including umbrellas, shall be adequately weighted. All outdoor furnishings shall be maintained in good repair and in a clean and safe condition.
 5. No outdoor entertainment shall be permitted. This limitation shall not apply in the case of recorded music that is not audible at any property line.
 6. No outdoor eating area shall include cooking or other food preparation equipment except where expressly authorized by the approval of a site plan clearly delineating the location and character of such food preparation facilities.
 7. An outdoor eating area shall be kept free of litter. Trash receptacles shall be emptied daily.
 8. Electrical illumination of an outdoor eating area shall be directed downward upon such area. This limitation shall not apply in the case where such lighting does not exceed six (6) feet in height and the Planning Commission determines that such lighting will not undermine the use and enjoyment of nearby property. No lighting shall increase light levels or glare upon adjacent properties.
 9. No furniture, apparatus, decoration or appurtenance used in connection with the operation of an outdoor eating area shall be located in such a way as to impede the safe and speedy ingress and egress to or from any building, or otherwise interfere with emergency services.
 10. No signage shall be allowed in association with an outdoor eating area except for the name of the establishment on an awning or umbrella fringe, and one menu board not to exceed six (6) square feet in area. Moving, fluttering or flapping pennants, flags, balloons and similar decorations are prohibited.
 11. The approving body may place restrictions on the hours of operation of the outdoor eating area where it determines surrounding land uses or other conditions, such as the proximity of nearby dwellings, justify such a restriction to ensure compatibility and public welfare.

Section 7. Amendment of Section 7.3(I). Section 7.3 of the Gerrish Township Zoning Ordinance is hereby amended by the addition of Section 7.3(I), to read as follows:

- I. *Outdoor eating areas that are greater than 1,500 square feet in area or permit more than sixty (60) persons to occupy such area, sitting or standing, or serve alcohol or permit alcohol consumption irrespective of the size or capacity of the area. Such outdoor eating areas shall comply with the site development requirements of Section 7.2(I). In addition, in no case shall patrons be allowed access to an outdoor eating area in which alcohol consumption is permitted*

except by access through the principal means of entrance into the indoor eating and/or drinking area.

Section 8. Severability. Should any section, clause or provision of this Ordinance be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, then and in that event such portion thereof shall not be deemed to affect the validity of any other part or portion of this Ordinance.

Section 9. Effective Date and Repeal Of Conflicting Ordinances. This Ordinance shall take effect eight (8) days following publication, following adoption. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

CLERK'S CERTIFICATION

I, Norma Lee Boyle, the duly elected, qualified and acting Clerk of the Township of Gerrish, Roscommon County, Michigan, hereby certify that the foregoing Gerrish Township Ordinance No. II-1-07, amending the 1960 Gerrish Township Zoning Ordinance as previously amended, was adopted at a regular meeting of the Township Board, held at 2997 E. Higgins Lake Drive, Roscommon, Michigan, on the 11th day of September, 2007 at which a quorum was present and voted.

Date September 12, 2007

Norma Lee Boyle, Township Clerk