

THE TOWNSHIP OF ESCANABA

COUNTY OF DELTA, STATE OF MICHIGAN

ORDINANCE NO. 6-01

ADOPTED ON MAY , 2001

EFFECTIVE 30 DAYS FOLLOWING PUBLICATION

TITLE

Escanaba Township Condominium Common Areas, Septic Systems, and Wells Regulation Ordinance.

PURPOSE OF ORDINANCE

To regulate the development of common areas, septic systems, wells, and to provide for an Owners' Association for care of same in all condominium developments in Escanaba Township and to provide for the regulation of same by the Township.

COMMON AREAS, SEPTIC SYSTEMS AND WELLS IN CONDOMINIUM COMPLEXES

GENERAL PROVISIONS

1. The Developer of any condominium development in Escanaba Township shall, prior to the commencement of construction on the development and prior to the sale of any units in the development, enter into an Agreement with the Township concerning common areas, septic systems, wells, and owners' Association pursuant to the following provisions.
2. The terms, provisions, and conditions of the Agreement shall be deemed to be of benefit to the land within the development and the provisions of the Agreement shall bind and inure to the benefit of the successors and assigns of the parties thereto, and all owners of units in the condominium project.

SPECIFIC TERMS OF AGREEMENT

REGARDING THE COMMON AREAS, WELL AND SEPTIC

1. Control and jurisdiction over any well, septic system and/or common areas shall be vested in a Condominium Association hereinafter referred to as the "Association". Such Association shall be organized as a non-profit corporation for the perpetual term under the laws of the State of Michigan. Such Association shall be incorporated prior to the sale of any of the units in the condominium project. Membership in the Association shall be mandatory for each owner of a condominium unit. The

Association shall be responsible for the proper maintenance of the common Areas, Well and Septic System and for compliance with the terms of this Agreement and the terms of all easements, covenants and restrictions of the condominium project.

2. Reference to the Agreement, and to the Liber and Page on which it shall be recorded, shall be included in the list of restrictions for the condominium project.
3. The Developer shall convey to the condominium Association fee simple title to the common areas, including any well and/or septic system, subject to any easements, rights of public or any other matters of record, within six (6) months from the end of construction period of the condominium project. From and after the date of such conveyance any and all responsibility and liability with respect to the common area, including any well and/or septic system, conveyed shall cease as to the Developer, except as to units still owned by the Developer, and shall vest in and be assumed by the condominium Association and its members in accordance with the terms of the Association By-laws and the easements, covenants and restrictions for the condominium project.
4. Title to the common areas shall vest in the Association, subject to the right and easement of enjoyment in and to such areas by said owners. Such easement shall not be personal but shall be considered to be appurtenant to said units, which easement shall be incorporated by reference in all deeds of conveyance and contracts pertaining to the sale of the units.
5. No change shall be permitted in the commons areas, including any well and/or septic system, that would alter the storm water and surface water retention without the express approval of the Township of Escanaba.
6. The Association shall be responsible for the maintenance of any well and/or septic system and common Areas as hereinafter more fully set forth:
 7. The well water and septic system shall be used for no purpose other than to serve said condominium project until such time as the Township may determine and signify by written notice to the Association or its successors that there is no further need for these facilities.
 8. The Association shall be responsible for insuring that each owner of the unit in the condominium project maintains his/her/their unit(s) and all improvements therein, including sidewalks and any roadways right-of-way contiguous to said unit, whether or not the same is designated as common areas.
9. In the event the Association or owners shall at any time fail to maintain any well and/or septic system in reasonable order, condition, and in compliance with all governmental rules, regulations, or laws, the Township may serve written notice upon the Association or upon said owners setting forth the manner in which the Association has failed to maintain any well and/or septic system in a reasonable condition or is not

in compliance with any governmental rules, regulations, or laws, and said notice shall include a demand that deficiencies of maintenance be cured within thirty (30) days thereof, and further, shall state the date and place of a hearing thereon before the Township Board or other such Board, body or official to whom the Township Board shall delegate such responsibility, which shall be held within fourteen (14) days of the notice. At such hearing, the Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the Township, in order to prevent any well and/or septic system from becoming a public nuisance, may enter upon said well and septic system and maintain the same for a period of one (1) year. Said maintenance by the Township shall not constitute a taking of the well and/or septic system nor vest in the public any right to use the same. Before the expiration of said year, the Township shall upon its own initiative or upon the request of the Association, call a public hearing upon notice of the Association and to the members thereof, at which hearing such Association or the members shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall reasonably determine that the Association is ready and able to maintain the well and septic system in a reasonable condition and in compliance with all governmental rules, laws, and regulations, the Township shall cease to maintain the Well and Septic System at the end of the said year. If the Township shall reasonably determine that the Association is not ready and able to maintain the Well and Septic System in a reasonable condition, the Township may in its discretion continue to maintain the said Well and Septic System during the next succeeding year, and subject to a similar hearing and determination, in each year thereafter. The reasonable cost of such maintenance by the Township shall be charged to the Association, and if not paid by it, assessed equally against each unit in the condominium complex, and shall become a lien on each unit, added to the tax rolls, and collected and enforced in a like manner as general township taxes are collected and enforced. In addition the Township shall be, at its option, subrogated to the Association's rights of collection from its members to the extent of the cost, if the Township shall, by an official resolution, give thirty (30) days written notice to each member of the Association of the Township's election to be subrogated. However, should an emergency threatening the public health, safety and/or general welfare of the public be determined by the Township to exist, the Township shall have the right to take immediate corrective action.

10. The Developer shall consent and provide that taxes assessed against the Common Areas may be pro-rated among the unit owners and billed as a part of the taxes assessed to the individual units.
11. The Developer shall display an acknowledgement of the Agreement, containing the Association's duties and responsibilities, with the Liber and Pages on which it is recorded in a conspicuous location in all places where said units are being sold, and supply a schematic of the development plans and requirements for maintenance of any well and/or septic system at the time of entering into a Purchase Agreement.

12. The covenants shall be binding on the parties thereto, their successors and assigns, unless the Township of Escanaba and seventy five (76%) percent of the owners of units in the condominium complex who are entitled to vote, by an instrument in writing recorded in the office of the Register of Deeds for Delta County, Michigan, agree to cancel, alter, amend or modify the Agreement.
13. Additional uses for any well and/or septic system as a common area may be established if approved in writing by not less than fifty-one (51%) percent of the members of the Association entitled to vote and thereafter ratified by the Escanaba Township Board.

PENALTIES AND ENFORCEMENT

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment.

Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking appropriate injunctive or other relief.

SEVERABILITY

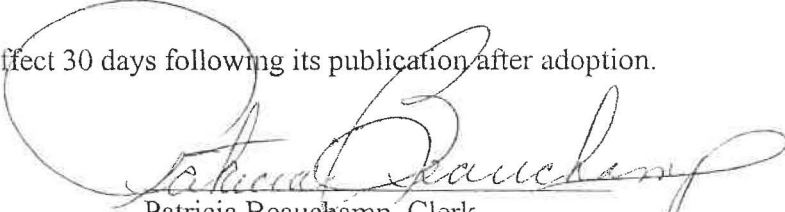
The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.

REPEAL

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Municipality zoning ordinance, the Municipality Subdivision Control Ordinance, or the Municipality Building Code.

EFFECTIVE DATE

This ordinance shall take effect 30 days following its publication after adoption.


Patricia Beauchamp, Clerk


Kevin Dubord, Supervisor