



CHAPTER 8¹²⁶

CONDOMINIUM DEVELOPMENT

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8. CONDOMINIUM DEVELOPMENT

8.1 PURPOSE

Applicability: The procedures and requirements of this Chapter shall apply to and govern the processing of condominium record of survey maps pursuant to the requirements of the Condominium Ownership Act of 1975, Utah Code Annotated Chapter 57, Chapter 8. Said procedures and requirements shall supplement zoning, site development, health, building and other ordinances applicable to a particular condominium project, and shall apply to the approval of such projects involving new construction as well as those involving the conversion of existing structures. In addition, condominium projects which contemplate dedication of real property or improvements for the use of the public, or condominium projects in which units are not contained in existing or proposed buildings shall also be considered

subdivisions requiring compliance with the applicable provisions of this Chapter.

8.2 DESCRIPTION; GENERAL LIMITATIONS

1.It is the intent of this Chapter to establish a reasonable process whereby the City can assess the impact of mixing collective and individual ownerships, as presented in a particular condominium project, upon the public health, safety, welfare, convenience of the City and to allow flexibility and diversification in the use of land in the following zones of Clinton City: PZ, RM and MP-1. Condominium ownership of spaces may be allowed as main uses in each of these zones. Uses of the condominium space shall be limited to those uses allowed in each zone. Residential development may also be required to follow those procedures set forth in Chapter 7 (PRUD Ordinance), Clinton City Zoning Ordinance. In the case of commercial or residential conversions of existing buildings, corrections of Building

Code violations, the upgrading of vehicle parking facilities and safety of common functional elements of the structure or structures are of prime importance. A condominium project shall be considered to be a subdivision, and a record of survey map or supplement thereto prepared.

2.Nothing in this Chapter shall be interpreted to state or imply that a condominium project, unit, association of unit owners, or management committee is exempt from compliance with the Zoning Ordinance, Building and Sanitary Codes, or similar development regulations which have been adopted by Clinton City, Davis County, the state of Utah, or any federal requirements. No condominium or any record of survey, declaration, or other material as required for recordation under this Chapter or the Utah State Condominium Act shall be recorded in the office of the County Recorder until all attributes of the condominium project shall have been approved by Clinton City.

8.3 DEFINITIONS

“Association of Unit Owners” Means all of the unit owners acting as a group in accordance with the declaration and by-laws.

“Building” Means a structure, containing units, and comprising a part of the property.

“Common Areas and Facilities” Means and includes, unless otherwise provided in the declaration of lawful amendments thereto:

- a. The land included within the condominium project, whether leasehold or in fee simple;
- b. The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the building when used by more than one unit;
- c. The basements, yards, gardens, parking areas and storage spaces when used in common by more than one unit;
- d. The premises for lodging of janitors or persons in charge of the property;
- e. Installations of central services such as power, light, gas, hot and cold water,

heating, refrigeration, air conditioning and incinerating;

f. The elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;

g. Such community and commercial facilities as may be provided for in the declaration; and

h. All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

“Common Expenses” Means and includes:

- a. All sums lawfully assessed against the unit owners;
- b. Expenses of administration, maintenance, repair or replacement of the common areas and facilities;
- c. Expenses agreed upon as common expenses by the association of unit owners; and
- d. Expenses declared common expenses by provisions of this Chapter, or by the declaration of the bylaws.

“Common Profits” Means and includes, unless otherwise provided in the declaration or lawful amendments thereto, the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

“Condominium” Means the ownership of a single unit in a multi-unit project, together with an undivided interest in common in the common areas and facilities of the property.

“Condominium Project” Means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed residential, commercial or industrial buildings or structures or otherwise, are separately offered or proposed to be offered for sale. Condominium project shall also mean the property when the context so requires.

“Condominium Unit” Means a unit together with the undivided interest in the common area and facilities appertaining to that unit. Any reference in this act to a condominium unit includes both a physical

unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

“Contractible Condominium” Means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this act. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project shall not be deemed a contractible condominium within the meaning of this act.

“Convertible Land” Means a building site; that is to say, a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this Chapter.

“Convertible Space” Means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including, but not limited to, limited common areas and facilities in accordance with this Chapter.

“Declarant” Mean all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the person referred to in this chapter who come to stand in the same relation to the condominium project as their predecessors did, shall also come within this definition.

“Declaration” Means the instrument by which the property is submitted to the provisions of this Chapter, as may from time to time be lawfully amended.

“Expandable Condominium” Means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this Chapter.

“Leasehold Condominium” Means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which

that unit is situated, or both, with all such leasehold interests to expire naturally at the same time. A condominium project including leased land or an interest therein, upon which no units are situated or to be situated shall not be deemed a leasehold condominium within the meaning of this Chapter.

“Limited Common Areas and Facilities” Means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

“Majority or Majority of the Unit Owners” Means, unless otherwise provided in the declaration or lawful amendments thereof, the owners of more than fifty percent in the aggregate in interest of the undivided ownership of the common areas and facilities.

“Management Committee” Means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules and regulations covering the operation and maintenance of the property.

a. The “management committee” makeup shall be fifty percent owners within the project and fifty percent disinterested parties not directly associated with the project to guarantee an impartial review of all decisions.

b. A management consultant or certified public accountant should be hired by the management committee or be made a member of the committee itself to guide the financial affairs of the project.

“Par Value” Means a number of dollars or points assigned to each unit by the declaration, substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may, but need not, be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement shall not be deemed to reflect or control the sales price or fair market value of any unit, or any undivided

interest in the common areas and facilities, voting rights in the unit owners' association, liability for common expenses, or right to common profits, assigned on the basis thereof.

“Person” Means an individual, corporation, partnership association, trustee or other legal entity.

“Property” Means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights; and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

“Record as Survey Map” Means a plat or plats of survey of land and units.

“Record, Recording, Recorded and Recorder” Shall have the meaning stated in Chapter 57-03, Utah Code Annotated.

“Size” Means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including, without limitation, attic, basement, or garage space, may, but need not, be omitted from such calculation or be partially discounted by the use of a ration, so long as the same basis of calculation is employed for all units in the condominium project and so long as that basis is described in the declaration.

“Time Period Unit” Means an annually recurring part or parts of a year specified in the declaration as a period for which a physical unit is separately owned.

“Unit” Means a separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors (or part or parts of floors) in a building or a time period unit, as the context may require. A convertible space shall be treated as a unit in accordance with subsection 57-8-13.4(3) Utah Code Annotated.

“Unit Number” Means the number, letter or combination thereof designating the unit in the declaration and in the record of survey map.

“Unit Owner” Means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration, or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

8.4 PLANNING COMMISSION/CITY COUNCIL REVIEW

In reviewing a condominium project, the Planning Commission and City Council shall review such things as:

- 1.Plans as required in this Chapter;
- 2.Geographic layout of the condominium project;
- 3.Facilities for utility lines, road and parking areas which will be constructed;
- 4.The percentage of the project which will be devoted to common or recreational use and whether or not those areas are usable and contiguous, or blocky parcels which are unacceptable; and
- 5.Contents of the declaration with respect to the standards which must be adhered to concerning maintenance, upkeep, and operation of any roads, utility facilities, recreational areas, and open spaces included in the project.

8.5 PRELIMINARY PLATS APPROVAL

For a condominium project to receive preliminary approval, the following standards and procedures must be adhered to. The owner or developer of a proposed condominium project desiring approval shall file an application with the Community Development Director of the City on a form prescribed by the City, together with:

- 1.Any person desiring approval from the Planning Commission for a condominium project shall file seven (7) copies of the preliminary plat with the Community Development Director not less than thirty (30) days prior to the Planning Commission meeting at which first consideration of the condominium project is to be given. The Planning Commission shall consider the

preliminary plat within sixty (60) days after the filing of the plat. Within thirty days of the first meeting at which the Planning Commission gives consideration to the preliminary plat, a decision shall be made to approve, disapprove, or approve on specific conditions.

2.The preliminary plats shall be distributed to the appropriate utility companies and to all departments of Clinton City.

3.Preliminary plats shall:

- a. Be drawn to scale as required by Utah Code Annotated section 57-8-13, as amended, which shall be made by a registered Utah Land Surveyor using a scale no smaller than one inch to equal fifty feet (1" = 50');
- b.Show diagrammatic floor plans identifying boundaries of the project units, convertible and expandable areas or spaces and common areas.
- c.Show the intended use of common areas, (e.g., storage, recreational, parking for guests as opposed to unit owners, open space, etc.), and should indicate whether such common areas are to be open to the public, assigned to specific units or semi-private and available only to unit owners.
- d.Have a north point, scale and date;
- e.Show the name of the condominium project;
- f.Show the names and addresses of the developer, engineer and surveyor;
- g.Have contour lines at no more than a five foot interval;
- h.Show the boundary lines of the condominium project;
- i.Show existing sanitary sewers, storm drainage systems, water supply mains, culvert and irrigation system within the project;
- j.Show and describe in detail the location of existing or proposed driveways, pedestrian ways, curb cuts, walls, structures, fences, landscaping and sprinkling systems.
- k.Show a preliminary utility layout for the condominium project;

l.Locations of streets, walks, easements, parks and open spaces, all commonly owned structures and property;

m.All requirements in Chapter 4, (Parking), Clinton City Zoning Ordinance, shall be observed, and all parking facilities shall be clearly shown on the plat;

n.Show clearly the construction phases of the project; and

o.Have the preliminary declaration.

4.Declarations; Bylaws: Two (2) copies, signed in the original, of the proposed condominium declarations and bylaws.

5.Certain items listed above may be waived at the discretion of the Planning Commission when the condominium project involves the conversion of the existing structures into condominium ownership; however, all conversions must be inspected by the City prior to preliminary approval to insure compliance to the current building codes.

Note: Certain items listed above may be waived when the project involves the conversion of existing structures into condominium ownership.

6.Incomplete Applications: Incomplete applications may be proffered and reviewed for advisory comment by the planning or building services divisions, but shall not be deemed accepted or received until complete, nor shall the condominium project be scheduled for any hearings before the planning commission until the application is complete.

7.Fees: The Clinton City Council may establish application and review fees from time to time as set forward in the Clinton City Consolidated Fee Schedule.

8.After review of the preliminary plat, the Planning Commission's recommendations shall be submitted to the City Council for its review.

8.6 FINAL PLAT REVIEW

At any time after approval of the preliminary plat by the City Council, but no later than one year thereafter, the linen, one reproducible copy and two prints shall be submitted to the City planning director who will check for conformance to the preliminary plat. Upon his review and approval

the City Community Development Director will submit the plat to the City Engineer for checking and approval. If the City Engineer finds that the plat meets all of the engineering requirements of the City, he will sign the engineers certificate of approval and will turn the plat to the County Health Department for their review and approval who will then return the plat to the City. If determined necessary by the City the City Attorney will check the declaration and the plat as to form and upon signing the certificate of approval, the attorney will turn the plat to the Planning Commission for its review and approval. The Planning Commission will forward the plat to the City Council for final action, which upon its approval, the Mayor will sign the City Council certificate of approval which will be attested by the City Recorder. If the final plat is rejected by any of the foregoing officers or agencies of the City, it shall be returned to the developer with a written statement of the reasons for rejection.

8.7 RECORDING REQUIRED

The final plat when, and only when, it bears all official approvals and required signatures shall be filed for record in the office of the Davis County Recorder by the Community Development Director.

8.8 REQUIREMENTS

The final plat shall comply in all respects with the requirements for a preliminary plat and in addition shall:

1. Be drawn with waterproof ink on standard grade linen or mylar with trim dimensions of nineteen inches by thirty inches;
2. Be drawn with the tip of the plat facing either north or west;
3. Be certified and signed by a registered land surveyor licensed to practice in the state of Utah;
4. Have reserved the proper spaces for dedication, certification, approval or recording as the case may be, for owners, City Engineer, City Attorney, County Health, Planning Commission, City Council and County Recorder;
5. Show proper bearings and dimensions of all project boundary lines, properly tied to public survey monuments;

6. Show widths, lengths, boundaries, bearings, dimensions and curve data of the centerlines of proposed street (public or private) and easements;

7. Show clearly on commercial projects, all parking stalls. For residential projects, which parking stalls will be covered, which will be guest or open stalls, and shall also show the layout of all R.V. parking areas;

8. The linear measurements and locations of the exterior boundaries of the building or buildings on the property other than within the boundaries of convertible lands;

9. Diagramed floor plans of the buildings built or to be built on the property, other than within the boundaries of any convertible lands, in sufficient detail to identify each convertible space and physical unit contained within a building including an identifying number or symbol, the official datum elevations of finished and unfinished interior surfaces of the floors and ceilings and the linear measurements of the finished or unfinished interior surfaces of the floors and ceilings and the linear measurements of the finished or unfinished interior surfaces of the perimeter walls, and the lateral extensions of every such convertible space and unit;

10. The size in square feet, and where applicable, the address of each unit in the condominium project; and

11. All other applicable items pertaining to the type of the condominium project as listed in 57-3-13, Utah Code Annotated.

