

CHAPTER 20. CONDOMINIUM APPROVAL PROCEDURE

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7-20-1. Application and scope.

The procedures and requirements of this Chapter shall apply to and govern the processing and requirements for approval of condominium record of survey maps for condominium projects. Said provisions shall supplement zoning, site development, health, building or other ordinances which may be applicable to the particular condominium project, and shall apply to the approval of condominium projects involving new construction as well as projects 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 applicable provisions of Chapter 19 of this Title as provided under the Condominium Ownership Act of 1975, 57-8-35 U.C.A. (1953), as amended. (Ord. 1980-24, 06-24-1980)

7-20-2. Definition of terms.

For purposes of this Chapter:

- (1) **Code.** "Code" shall mean the provisions and ordinances of the Tooele City Code.
- (2) **Common Areas, Space and Facilities.** "Common areas, space and facilities" shall mean the property and improvements of the condominium project or portions thereof conforming to definition set forth in Section 57-8-3, Utah Code Annotated, 1953, as amended.
- (3) **Condominium and Condominium Project, and Condominium Unit.** "Condominium," and

"condominium project," and "condominium unit" shall mean property or portions thereof conforming to the definitions set forth in Section 57-8-3, Utah Code Annotated, 1953, as amended.

(4) **Condominium Ownership Act of 1975, or "Act".** "Condominium Ownership Act of 1975" or "Act" shall mean the provisions of Chapter 8 of Title 57 of Utah Code Annotated, as amended in 1975.

(5) **Conversion.** "Conversion" shall mean a proposed change in the type of ownership of a parcel or parcels of land, together with the existing attached structures from single ownership of said parcel such as an apartment house or multi-family dwelling into that defined as a condominium project or other ownership arrangement involving separate ownership of individual units combined with joint collective ownership of common areas, facilities or elements.

(6) **Map.** "Map" shall mean "Record of Survey Map", as defined in Section 57-8-3(18), Utah Code Annotated, 1953, as amended.

(7) **Refurbishing or Renovation.** Repairs, remodeling, improvements or restoration work, nonstructural in nature, and not required by applicable building codes.

(8) **Unit.** A "Unit" shall mean the physical elements or space or time period of a condominium project which are to be owned or used separately and excludes common areas and facilities as defined in Section 57-8-3, Utah Code Annotated, 1953, as amended.

(Ord. 1987-24, 01-02-1988) (Ord. 1980-24, 06-24-1980)

7-20-3. Purpose.

This chapter is enacted pursuant to the mandate of the State of Utah to establish procedures for the review and approval of condominium projects to insure they comply with applicable ordinances and state laws. Condominium and other similar types of hybrid ownership arrangements mixing individual ownership with collective ownership of common areas represent an increasingly popular response to complex forces at work in our society and community. This type of hybrid ownership also magnifies the impact upon public health, safety and welfare, convenience and life-style when conditions of poor land use or site planning, mismanagement, neglect or deterioration, blight or outdated structural conditions are allowed to occur or continue.

Corrections of building code violations and upgrading of safety or common functional elements of the structure is of prime importance. In addition, conversion of existing apartments or similar multi-family rental dwelling structures into condominiums, have had the effect and increase the potential of displacing long-term residents, especially senior citizens, who face the City's shortage of replacement rental housing. That shortage, combined with

withdrawal of the private sector from the rental market because of conversion, places additional pressure upon the public sector, to which public agencies involved with housing need time to respond. Therefore, it is the purpose of this ordinance to regulate conversion to promote the safety and revitalized use of the City's structures for the benefit of increased home ownership opportunity while attempting to mitigate the human hardship of misplacement by reasonable notice and disclosure requirements.

(Ord. 1980-24, 06-24-1980)

7-20-4. Concept approval - Planning commission.

(1) Prior to submission of any application for approval to the City Engineer as required in 7-20-5, below, the owner or developer of a proposed condominium or condominium conversion project shall submit a drawing or layout of the proposed project to the Planning Commission for concept approval. The Planning Commission shall review the proposed project regarding, but not limited to, the following considerations as applicable to the project:

(a) The site, including size, location, traffic flow, accessibility and neighborhood development;

(b) The proposed land use, including placement of buildings or other improvements, density or intensity of use, common areas and facilities, contouring and landscaping, and internal circulation systems and parking;

(c) Policy considerations, including conformity with the master plan of the City and compliance with other applicable provisions of the City Code, County Regulations and State Laws.

(2) The Planning Commission may, as a condition to granting concept approval impose such reasonable restrictions or additional reasonable requirements relative to the aforementioned considerations as deemed necessary by the Planning Commission depending upon the particular circumstances of any given project.

(Ord. 1980-24, 06-24-1980)

7-20-5. Submission of application.

(1) The owner or developer of a proposed condominium project desiring approval shall file an application with the City Engineer on a form prescribed by the City together with:

(a) Two (2) copies of the proposed Map accurately drawn to scale, as required by Section 57-8-13, U.C.A., 1953, as amended, which shall be made by a registered Utah land surveyor using scale no smaller than one inch (1") to equal forty feet (40'). In addition, said map or an additional site plan shall reflect the required floor plans identifying boundaries of the project units, convertible and expandable areas or spaces, and common areas. Said Map or plan should designate 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 being available only to unit owners. Said Map or site plan shall also identify and describe in detail the location of existing or proposed driveways, pedestrian ways, curbcuts, walls, structures, fences, landscaping and sprinkling systems.

(2) Two (2) copies, signed in the original, or the proposed condominium declarations and bylaws, together with a copy of the documents recorded after final approval.

(3) Where conversion of an existing building is proposed as part of the condominium project, a property report for each conversion project including the information required by the International Building Code as amended herein, shall be submitted as part of the application together with the plan for proposed improvements renovations and repairs.

(4) Proof of notice to tenants required by Section 7-20-11 below shall be required before final approval, but may be submitted at owner/developer's option after preliminary approval is obtained.

(5) Filing fees. To assist the City to defray costs involved with the review of the project, fees shall be submitted with the application in the following amounts:

\$25.00 per project plan plus;
\$ 5.00 per unit (1-10 units); plus,
\$ 2.00 per unit over 10 units.

(6) Repealed. (Ord. 1993-04, 05-04-1993)

(7) Repealed. (Ord. 1993-04, 05-04-1993)

(Ord. 2004-15, 10-20-2004)

7-20-6. Review of declarations.

Condominium declarations and bylaws shall be reviewed by the Tooele City Attorney to assure the inclusion of provisions which to City's satisfaction address and fix responsibility for the maintenance, upkeep and repair of common areas including common walls, electrical, mechanical, plumbing or utility systems, recreational areas, landscaping and parking areas. Also, declarations shall restrict the use of any individual residential dwelling unit to single-families. The City Engineer shall also review said declarations and require appropriate disclosure or treatment of any unusual circumstances, variances or conditions placed upon the condominium project for approval.

(Ord. 1980-24, 06-24-1980)

7-20-7. Preliminary review and approval by city engineer.

Upon receipt of an application for approval of a condominium project, the City Engineer shall review the proposed building plans for new construction, and/or the property report and plan of improvements, renovations and repairs in the case of a conversion project to determine if such plans comply with

applicable building codes. In the case of a conversion, the City Engineer shall require inspections of the property and may require supplementation, revision and re-submission of the property report should it be determined that substantial discrepancies exist or inspections indicate report statements are not supported by facts, code requirements or sound construction practices. Upon preliminary review, the City Engineer shall note corrections, repairs and replacements which must be made to bring the structures into code compliance together with a list or renovation improvements proposed by the developer not required by code. The City Engineer in such preliminary report, shall indicate any requirements of the International Building Code, as amended herein, he anticipates waiving as being impractical because of the unique circumstances associated with the structure and any conditions he intends to impose upon such waivers. The City Engineer may then recommend denial until such time as existing violations of code are corrected or may recommend preliminary approval of the project and building report subject to the condition that violations be corrected prior to final approval. (Ord. 2004-15, 10-20-2004); (Ord. 1980-24, 06-24-1980)

7-20-8. Preliminary review by Tooele City Attorney.

The Tooele City Attorney shall review the application and related documents to determine whether the project conforms to applicable requirements of the Condominium Ownership Act of 1975, applicable zoning ordinances of the district in which the condominium project is located, the status or extent of nonconforming rights, applicable conditions on the use or building imposed by ordinance, variances, conditional uses and/or prior approval of a planned unit, clustered or group development. If the City Attorney finds requirements, (s)he may recommend denial of the condominium project until such violations have been corrected or requirements have been completed, or (s)he may recommend preliminary approval subject to the condition the violations be corrected, completed or bonded prior to final approval. (Ord. 2016-15, 10-19-2016) (Ord. 1980-24, 06-24-1980)

7-20-9. Preliminary approval.

(1) If upon submission of the reports and recommendations of the City Engineer and City Attorney, the City Engineer finds that: (1) both recommendations are favorable, and (2) that the City Engineer is not waiving any requirements imposed by the ordinance, the City Engineer may, on an administrative staff basis grant preliminary approval. Absent such a finding that said criteria is met, or in the event of a dispute regarding conditions imposed by such an administrative preliminary approval, the matter shall be set for hearing before the Planning Commission

pursuant to (2) below.

(2) When an administrative approval is not appropriate under (1) above, the City Engineer shall submit the reports and recommendations of the City Engineer and City Attorney before a hearing of the Planning Commission for consideration of preliminary approval or modifications thereof. If the Planning Commission finds that approval is recommended by the City Engineer and City Attorney, and that the project is in compliance or has presented approved plans which will bring the structures into compliance with applicable zoning, building, health or subdivision ordinances and requirements, the Planning Commission may grant preliminary approval and it may impose appropriate conditions subsequent as part of its approval. Such conditions may include correction of violations, appropriate amendment to declarations and the submission of Notice of Intent to tenants, etc., to be completed prior to final approval.

(3) The effect of preliminary approval shall entitle the owner/developer to proceed with obtaining building permits, giving notice to tenants and preparing documents for final approval, and to otherwise proceed with the project with all aspects thereof being subject and conditioned upon final approval. (Ord. 1980-24, 06-24-1980)

7-20-10. Final review.

(1) Building Official. After preliminary review, the Building Official, or in his absence, the City Engineer, shall cause the structure to be inspected in the normal course of inspection work being conducted under permit. Prior to final approval, the Building Official shall cause final inspections of all structures and work therein to be completed upon the request of the owner/developer to determine conformance to applicable building codes. If the Building Official finds remaining corrections, repairs or replacements which are required to bring renovations, said Official may require corrections and completion of such work prior to final approval. However, should the Building Official determine plans to correct code violations or to complete proposed renovations or refurbishing after final approval as a condition thereof, are reasonable and shall not create hazards to the health or welfare of occupants, said Building Official may recommend final approval subject to completion of necessary or planned work, provided the owner/developer files a faithful performance bond in an amount equal to guarantee the estimated cost of labor and materials to correct violations of building codes, or conditions imposed by ordinance or order. Said bond shall be approved by the City Attorney as to form and content and said approved bond must be filed with the final Map prior to submission to and approval by the City Council. The acceptance of such bond as a condition of final approval shall not waive or substitute for the need of the owner/developer to obtain a certificate of occupancy for

the project or units after work is completed prior to actual occupancy, if applicable.

(2) By City Engineer. After preliminary approval, the City Engineer shall be responsible to monitor conditions of preliminary approval to insure compliance therewith prior to presentation to the Planning Commission and City Council for final approval. All violations of existing ordinances shall be corrected and requirements shall be completed prior to final approval, or shall be corrected or completed as a condition of final approval prior to submission to City Council or shall be bonded according to the criteria and standards set forth in (A) above. The sixty (60) day notice period required in Section 7-20-11 shall commence from the latest date of notice to any tenant and must elapse prior to submission of the condominium project to the Planning Commission for final approval.

(Ord. 1980-24, 06-24-1980)

7-20-11. Final approval - Planning commission and city council.

Upon submission of the recommendations of the City Engineer, Building Official and City Attorney, the matter shall be set for consideration of the Planning Commission. If said Commission finds that the project is in compliance with applicable ordinances and the requirements of preliminary approval, the Planning Commission may recommend final approval. The Planning Commission must approve any recommendation from the City Engineer or Building Official for work that is proposed for subsequent completion, bonding or waiver and may affirm or otherwise impose appropriate terms upon such bonding or conditions upon its approval. Upon final approval by the Planning Commission, the City Engineer shall insure all conditions of approval have been completed, all final documentation is signed and submitted including any required bonds or agreements required to be filed, and shall then submit the matter, together with the recommendation of the Planning Commission with his signature upon the map before the City Council for final approval. If the City Council shall determine said project is in conformity with the requirements of applicable ordinances of Tooele City, it shall approve said Map. If it should determine said project is not in conformity with requirements of the ordinances of Tooele City, or if it rejects any offers of dedication, or if it is not satisfied with plans of a project which constitutes a subdivision, it shall disapprove said Map specifying reasons for disapproval. Within thirty (30) days after the City Council has disapproved any project, the developer may file with the City Engineer a Map altered to meet the requirements of the City Council. No final Map shall have any force or effect until the same has been approved by the City Council as reflected by the signature of the Mayor and is officially recorded with the Tooele County Recorder within eighteen (18) months from the date of the Mayor's

signature.

(Ord. 1980-24, 06-24-1980)

7-20-12. Notice to residential tenants in conversion project.

(1) Notice. As part of the application for approval of a condominium project, when said project involves the conversion of an existing residential structure where the structure has been occupied by residential tenants prior to application for conversion, the owner/developer shall provide notice of intended conversion to said tenants by certified mail. This notice requirement shall not apply to nonresidential structures or to a residential structure that was vacant upon acquisition and remained so during the year prior to filing of the developer's application for conversion; nor shall it preclude the approval of a project prior to the expiration date where every tenant has executed a waiver relinquishing his or her right of notice under this provision.

(2) Contents. Such notice shall include:

(a) the intention and plans for the conversion of the building to a condominium project;

(b) the estimated dates of construction period and termination of occupancy which shall not be less than sixty (60) days from the date notice is served upon occupants or expiration of individual leases, whichever is longer;

(c) the disclosure of the specific initial fixed sales price for each unit which shall be no greater than the price initially advertised and offered to the general public;

(d) relocation information for the tenants specifying available alternative housing relocation resource agencies and organizations and a plan of any services to be voluntarily provided by the owner/developer.

(3) Dissemination of notice. A copy of said notice together with a list prepared by the owner/developer identifying names, apartment or unit numbers, approximate ages, rental rates and other known special handicaps or factors affecting relocation needs of the tenants, shall be submitted to the Tooele City Housing Authority and Tooele County Social Services Department to advise said agencies of the conversion and/or solicit their assistance with relocation services. No final approval of such a conversion project shall be granted by the Planning Commission until the owner/developer has provided proof of service by certified mail or subsequent proof of actual delivery by method of services allowed under Section 78-36-6, Utah Code Annotated, of such notices and relocation plans as required above, and the time designated therein (a minimum of sixty (60) days) has expired.

(Ord. 1980-24, 06-24-1980)

7-20-13. Tenant protest review.

(1) When a tenant of a residential dwelling has received written formal notice of eviction without cause

and without at least 60 days notice of conversion and has reason to believe that notice was issued because of a proposed condominium project, the tenant may, within 15 days of the date of the notice of eviction, initiate an appeal regarding the issue of proper notice to the administrative hearing officer. The filing of such an appeal shall stay the issuance of any approval or issuance of any permits for the structure in question for a period not to exceed 30 days and the matter shall be set for hearing before the administrative hearing officer. Subsequent appeals shall not act to further stay the issuance of approval of the condominium project.

(2) Upon filing, a copy of the appeal form shall be forwarded to the Tooele Housing Authority for relocation advice and assistance. That Authority shall within ten days forward to the administrative hearing officer a statement of its report and recommendation.

(3) Upon filing of an appeal, the building official shall institute an investigation to determine if the notice requirements were satisfied. The building official shall then report his findings to the administrative hearing officer within 10 days of filing the appeal.

(4) The administrative hearing officer shall fix a reasonable time for the hearing of the appeal, give due notice to the appellant and to the owner/developer of the condominium project, and shall, at the hearing, review the appeal together with Agency and department reports, recommendations, and related permit or subdivision applications and shall decide the same within 30 days from the date of filing of the appeal.

(5) The administrative hearing officer, with regard to hearing the appeal, may:

(a) enforce the attendance of witnesses, the production of books and papers and administer oaths;

(b) direct municipal resources, if necessary and appropriate, to alleviate relocation hardships;

(c) hear and decide allegations of error in any order, requirement, decision or determination made by a municipal officer in the performance of the officer's duties;

(d) see that the laws and ordinances are faithfully executed and direct investigations accordingly;

(e) institute any appropriate actions or proceedings to prevent or punish persons from or for performing any acts contrary to the building and zoning ordinances of Tooele City;

(f) impose reasonable conditions relating to the terms and conditions upon which the project will be approved which may include suspension of approval pending preparation and implementation of a reasonable relocation plan or services for tenants who have not been given proper notice, or denial of the application in which event the owner/developer may not re-apply for 18 months from the date of denial.

(Ord. 2016-15, 10-19-2016) (Ord. 1994-56, 01-31-1995) (Ord. 1988-18, 07-06-1988)

7-20-14. Enforcement.

(1) It is unlawful for any person, firm, corporation, partnership or association to sell or lease any unit of any condominium or any other portion thereof until the final Record of Survey Map, in full compliance with the provisions of this Title, have been finally approved by the City Council and duly recorded in the office of the County Recorder, except that in the case of a conversion, existing leasing arrangements may be maintained during the conversion process.

(2) All departments, officials and public employees of the City, vested with the duty or authority to approve or issue permits, shall conform to the provisions of this Code and shall neither accept applications nor approve or issue any permit or license for use, construction or any purpose in conflict with the provisions of this Code. Any such Map, permit or license, issued or approved in conflict with the provisions of this Code shall be null and void.

(3) Repealed. (Ord. 91-08, 12-12-91)

(4) The City Engineer or the Building Official shall have the authority to enforce this Code against violations thereof by any of the following actions:

(a) To serve notice requiring the cessation or correction of any action in violation of this Code upon the developer, owner, agent of the developer, successor-in-interest of the developer or owner, tenant, purchaser, builder, contractor or other person who commits or assists in such violation;

(b) To recommend denial of the condominium project application; or,

(c) To call upon the City Attorney to maintain an action for injunctive relief to restrain, abate or cause the corrections of such violation, or to institute criminal proceedings.

(Ord. 1991-08, 12-12-1991) (Ord. 1980-24, 06-24-1980)

7-20-15. Severability.

(1) If any article, section, subsection, paragraph, sentence, clause or phrase of this Chapter, or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any Court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter, or any part thereof. The City Council hereby declares that it would have passed each article, section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more articles, sections, subsection, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

(2) If the application of any provisions or provisions of this Chapter to any person, property or circumstances is found to be unconstitutional or invalid or ineffective in whole or in part by any Court of competent jurisdiction, or other competent agency, the effect of such decision shall be limited to the person,

property or circumstances immediately involved in the controversy, and the application of any such provision to other persons, properties and circumstances shall be unaffected.

(Ord. 1980-24, 06-24-1980)

7-20-16. Effective date.

In the opinion of the City Council of Tooele City, it is necessary to the peace, health and welfare of the inhabitants of Tooele City that this ordinance become effective immediately. This ordinance shall take effect upon its first publication.

(Ord. 1980-24, 06-24-1980)