

ORDINANCE NO. 2002 - 02

AN ORDINANCE ADOPTING A COMPREHENSIVE
CONDOMINIUM ORDINANCE FOR THE CITY OF WENDOVER, TOOELE
COUNTY, UTAH TO BE KNOWN AS THE "CONDOMINIUM
ORDINANCE OF WENDOVER, UTAH".

RECITALS

A. The City is empowered by law to enact reasonable rules and regulations governing the erection, construction, alteration, modification and general change or erection of any new or existing structure to be used a condominium.

B. The City Council finds that the interest of the City, its residents and businesses will be served, and the public health, safety and welfare will be promoted by requiring that all condominium projects in the City be reviewed and approved by the City and appropriately regulated, all for the protection of the community, and prospective purchasers of condominium units.

C. The City Council of the City of Wendover, Tooele County, Utah desires to enact an ordinance providing for the reasonable regulation of condominium developments, including new construction and conversions of existing structures within the City.

BE IT ORDAINED BY THE WENDOVER CITY COUNCIL:

Section No. 1. Ordinance Adopted. The ordinance attached hereto as Exhibit "A" is hereby approved and adopted as the Condominium Ordinance of the City of Wendover.

Section No. 2. Repealer. All previous ordinances, rules and regulations adopted by the governing body of the City, relating to condominiums in the City are repealed. This repealer shall not repeal, however, general planning, zoning and subdivision ordinances, rules and regulations which affect and govern condominium developments in the City.

Section No. 3. Conflicts with Laws. Consistent with the provisions of Utah Code Annotated Section 57-8-35, if any provision of this ordinance is found to violate or conflict with the Utah Condominium Ownership Act, the provisions of the Act shall govern and prevail.

Section No. 4. Severability Clause. The provisions of this Ordinance and all regulations which may be adopted hereunder are severable. If any provision of this Ordinance is held invalid or unenforceable for any reason, said invalidity or unenforceability shall not affect any other provision of this Ordinance or its application under a different circumstance.

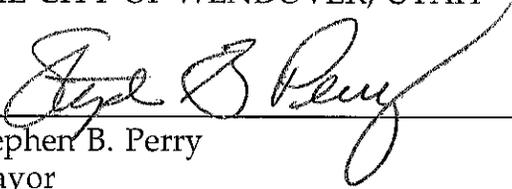
*Post: 3/21/02: Fred's Market, Wendover, UT City OFFICE,
Wendover, UT Post OFFICE*

Section No. 5. Violation and Penalty. The violation of any provision of the Ordinance adopted herein shall be deemed a Class B misdemeanor, and punishable as provided by law.

Section No. 6. Effective Date. This Ordinance shall become effective immediately upon passage by the City Council, signature by the Mayor and recording with the office of the City Recorder.

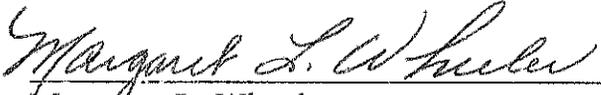
PASSED AND ADOPTED BY THE CITY COUNCIL OF WENDOVER, TOOELE COUNTY, UTAH, THIS 20th DAY OF MARCH, 2002.

THE CITY OF WENDOVER, UTAH



Stephen B. Perry
Mayor

ATTEST:



Margaret L. Wheeler
City Recorder

EXHIBIT "A"

CONDOMINIUM ORDINANCE
OF
WENDOVER, UTAH

CONDOMINIUMS
CHAPTER 12

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CHAPTER 12-1. TITLE, PURPOSE AND OBJECTIVES.

12-1-1. Short Title. This Ordinance shall be known as the "Condominium Ordinance of the City of Wendover, Utah.

12-1-2. Purpose And Objectives Of Ordinance. Some of the purposes and objectives of this Ordinance are as follows:

(1) The procedure and requirements of this Ordinance shall apply to and govern the construction and/or conversion of condominiums, and approval of all bylaws, record of survey maps, and declarations for condominium projects within the corporate limits of the City. Said provisions shall supplement zoning, health, building or other ordinances which may be applicable to a particular condominium project, and shall apply to the approval of condominium projects involving new construction as well as conversion of existing structures.

(2) The procedures set forth herein are intended to recognize the unique characteristics of condominiums and condominium conversions and to provide a review process and a set of standards which will address these unique characteristics and to reduce any negative impacts upon

the community, neighborhood areas, or prospective owners which may result from the creation of a condominium of condominium conversion.

(3) Condominium ownership differs in numerous respects from conventional building ownership. It is in the interest of the public health, safety and welfare that condominium projects, pursuant to the Condominium Ownership Act, Sections 57-8-1, et. seq., Utah Code Annotated, 1953 as amended, should be reviewed and approved by the City and appropriately regulated for the protection of the community, displaced tenants, and prospective purchasers of condominium units.

(4) In addition, condominium projects which contemplate dedication of real property or improvements for the use of the public, or condominium projects which convey specific title to land, or projects which are not contained in existing or proposed buildings, shall also be considered subdivisions requiring compliance with applicable provisions of the City Subdivision Ordinance.

(5) To achieve the purposes and objectives of this Ordinance, all proposals for a condominium development or conversion shall be made pursuant to the provisions of this Ordinance. The standards and criteria contained herein are intended to provide assurances that the geographical layout of the project is accomplished in a manner which is attractive and is not detrimental to the functioning of the project or surrounding areas; and that the contents of the declaration assure proper operation, construction, maintenance, and upkeep of all utilities, facilities, recreation areas, and roads and parking areas within the development as referenced by the Utah Condominium Ownership Act, U.C.A. Section 57-8-35, et seq. , as amended.

CHAPTER 12-2. DEFINITIONS.

12-2-1. General Definitions. Whenever any words or phrases used in this Ordinance are not defined herein, but are defined in related sections of the Utah Code, in the Zoning Ordinance, or in the Subdivision Ordinance, such definitions are incorporated herein and shall apply as though set forth herein in full, unless the context clearly indicates a contrary intention. Unless a contrary intention clearly appears, words used in the present tense include the future, the singular includes the plural, the term "shall" is always mandatory, and the term "may" is permissive. The masculine form shall include the feminine and neuter, and the feminine form shall include the masculine and neuter.

12-2-2. Specific Definitions. The following terms, as used in this Ordinance, shall have the respective meanings hereinafter set forth.

(1) "Building" means a building containing units, and comprising a part of a property.

(2) "City" means the City of Wendover, Tooele County, Utah.

(3) "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 also means planned unit development, as defined in this Section, unless the context clearly indicates otherwise.

(4) "Condominium project" means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, 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.

(5) "Condominium unit" means a unit, together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this ordinance to a condominium unit includes both a physical unit, together with its appurtenant and undivided interest in the common areas and facilities, and a time period unit, together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(6) "Conversion" means a proposed change in the type of ownership of a parcel or parcels of land and/or existing structures from single ownership, such as an apartment house or multifamily dwelling into a "condominium project," as herein defined with arrangements involving separate ownership of individual condominium units and joint collective ownership of common areas or facilities.

(7) "Common Areas and Facilities," unless otherwise provided in the declaration or lawful amendments thereto, mean and include:

- (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, and entrances and exits of the building;
- (c) The basements, yard, gardens, parking areas and storage spaces;
- (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.

(8) "Common Expenses" mean and include:

- (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 or the bylaws.

(9) "Condominium Act" or "Act" mean the Utah Condominium Ownership Act, Utah Code Annotated Section 57-8-1, *et seq.* or any successor provision of law.

(10) "Declarant" means 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 persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors did shall also come within this definition.

(11) "Declaration" means a recorded declaration containing covenants, conditions and restrictions relating to the condominium project which shall be prepared in conformance with the provisions of Section 57-8-10, Utah Code Annotated, 1953, as amended.

(12) "Limited Common Areas and Facilities" mean and include 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.

(13) "Open space" means landscaped areas that are not occupied by buildings, structures, parking areas, streets or alleys and are devoted to recreation use or preservation of natural features.

(14) "Property" means and includes 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.

(15) "Person" means any person, firm, corporation, partnership or association.

(16) "Planned Unit Development" means an integrated design for development of residential, commercial or industrial uses, or combination of such uses, in which one or more of the regulations, other than use regulations, of the district in which the development is to be situated, is waived or varied to allow flexibility and initiative in site and building design and location in accordance with an approved plan and imposed general requirements as specified in the ordinances, rules and regulations of the City. A planned unit development may be:

(a) The development of compatible land uses arranged in such a way as to provide desirable living environments that may include private and common open spaces for recreation, circulation and/or aesthetic uses;

(b) The conservation or development of desirable amenities not otherwise possible by typical development standards; and

(c) The creation of areas for multiple use that are of benefit to the neighborhood.

(17) "Record of Survey Map" means a plat or plats of survey of land and units prepared in accordance with the requirements of Section 57-8-13 of the Condominium Act and also in accordance with this Ordinance, and as applicable, the City's Subdivision Ordinance.

(18) "Unit" means either 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.

(19) "Unit Number" means the number, letter or combination thereof designating the unit in the declaration and on the record of survey map.

(20) "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.

CHAPTER 12-3. APPLICATION AND APPROVAL REQUIREMENTS.

12-3-1. Approval Required. Prior to the construction or conversion of any building to be used as a condominium, the record of survey map, the bylaws, and the declaration therefore shall be submitted to and be approved by Wendover City in conformance with the procedures, requirements, and standards contained herein, as required under the Condominium Act.

12-3-2. Application Process. The Application process shall consist of two parts: first a preliminary application, review, comments and approval by the City and the Planning Commission; and second, a final evaluation and approval by the City Council.

12-3-3. Preliminary Application. The owner or developer of a proposed condominium project desiring approval shall file an Application with the City. Said application shall be accompanied by:

(1) 5 copies of a preliminary record of survey map accurately drawn to scale which shall be prepared by an engineer or land surveyor registered in the State of Utah. The scale of said record of survey map shall be no smaller than one inch equals 40 feet. The preliminary record of survey map should conform in all respects to Section 57-8-13 of the Act, and otherwise to the City's Subdivision Ordinance.

(2) 5 copies of a site plan prepared to the same scale as the record of survey map designating the location of existing and proposed buildings, present and needed utilities, irrigation and drainage ditches, and intended use of common areas, the locations of existing and proposed utility lines and easements, and the location and extent of storage, recreational facilities, parking, driveways, pedestrian ways, curbs and sidewalks, walls, fences, landscaping and sprinkling systems.

(3) Two copies of the proposed condominium declarations and bylaws.

(4) Where conversion of an existing building is proposed as part of the condominium project, a property report containing the information specified in this Ordinance shall be submitted as part of the application, together with a plan for all proposed improvements and repairs.

(5) Proof of Notice to Tenants required by Section 12-8-3 and 4, to be submitted prior to final condominium approval.

(6) Fees shall be submitted with an application in the amounts as established by a fee resolution duly adopted by the City. Applications may be accepted and reviewed by the City only upon payment in full of all fees has been received by the City.

12-3-4. Preliminary Evaluation. Upon receipt of the Application and other materials required in Section 12-3-3, the City Administrator (or his designee) shall check the preliminary application for

general compliance with these regulations, design standards, and other applicable ordinances. If the application does not appear to be in general compliance, the City Administrator shall notify the declarant and specify the respects in which the application is deficient. If the submission appears to be complete and in general compliance, the City Administrator shall forward copies to the Planning Commission, fire department, public works department and building inspector. At the same time, the declarant shall transmit the requested number of copies of the development plans, together with accompanying data, to such public utilities as may be concerned. Each of the City departments and other utilities may forward to the City a written report of its findings and recommendations. In order to facilitate review by the Planning Commission, reports of departments and utilities should be received within two weeks of the transmittal date by the City Administrator. The written reports, if any of the public agencies and utilities shall, upon receipt, be forwarded to the Planning Commission.

12-3-5. Action By Planning Commission - Preliminary. Within a reasonable time after the filing of a condominium application, the Planning Commission shall act thereon.

(1) If the Planning Commission finds that the proposed development complies with the requirements of this Ordinance and other provisions of law, that it poses no substantial hazards or detriment to the health, safety or welfare of the community, neighborhood or prospective owners of the condominium units, and that it is satisfied with the development plans, it shall recommend approval, or may recommend approval with conditions, of the application.

(2) If the Planning Commission approves the proposed development without conditions, then the plans and related documents shall be submitted to the City Council for final review and approval.

(3) If the Planning Commission approves the proposed development with conditions, then the conditions shall be communicated to the declarant, who shall make appropriate revisions to its application, plans or such other materials required by the Planning Commission. Such conditions may include, but are not limited to, corrections of violations of building, zoning, health, fire, or similar codes, appropriate amendments to declarations, bylaws, or amendments to the Record of Survey Map and the project plan which may enhance or protect or enhance or protect the environment of the condominium development and the neighborhood in which it is located. Upon completion of the revisions or amendments, the same may be resubmitted to the City for its review, consistent with the provisions of this Ordinance

(4) If the Planning Commission finds that the proposed development does not meet the requirements of this Title, other applicable ordinances, other provisions of law, or that it is not satisfied with the development plans, it shall recommend disapproval of such development.

12-3-6. Notification To Declarant. The City shall notify the declarant in writing, of the actions taken by the Planning Commission. One copy of the plat and accompanying conditions, if applicable, and the minutes of the Planning Commission meeting shall be retained in the permanent file of the Planning Commission.

12-3-7. Effect Of Preliminary Approval. Approval of the preliminary application shall in no way relieve the declarant of responsibility to comply with all required conditions and ordinances, and to provide the improvements and easements necessary to meet all City standards.

CHAPTER 12-4. FINAL APPROVAL PROCEDURE.

12-4-1. Final Planning Commission Evaluation. The Planning Commission shall examine the final application and plans for: completeness and general compliance with this Ordinance; for compliance with the preliminary plans; and for incorporation of any changes or conditions required during the preliminary approval procedure. If the submission is not complete, not in general compliance, or does not incorporate required changes, the City shall notify the declarant and specify the respects in which it is deficient. If the submission is found complete and otherwise meets all requirements of the Planning Commission, the Declarant shall be so notified. The Declarant shall be responsible to provide notification to the City of its desire to present the final submissions, as approved by the Planning Commission, to the City Council for final approval. If such notification is not given within six (6) months from the date of final approval by the Planning Commission, such approval shall be null and void. This time period may be extended for up to 12 months if the declarant petitions the City Administrator for an extension prior to the expiration date. Only one extension may be granted. The extension may be denied if the City Administrator determines that an extension would be detrimental to the City.

12-4-2. Action By City Council. The following procedures and requirements shall control review, evaluation and final approval by the City Council.

(1) Within a reasonable time following the receipt of notice of approval by the Planning Commission, the City Council shall consider the application, related submissions and any offers of dedication. If the City Council shall determine that the plans are in conformity with the requirements of this Ordinance and other applicable ordinances, rules and regulations of the City, that the project presents no substantial hazards or detriment to the health, safety or welfare of the community, neighborhood or prospective owners of the condominium units, and that it is otherwise satisfied with the plans of the development and offers of dedication, it shall approve the plat.

(2) If the City Council shall determine that the plans are not in conformity with the requirements of this Ordinance, other applicable ordinances, any reasonable conditions imposed, or if it shall reject any offer or offers of dedication, it shall disapprove the plan specifying reasons for such disapproval. Within one (1) year after the City Council has disapproved any plan, the declarant may file with the City a plan altered to meet the requirements of the City Council. Any such application shall not require an additional filing fee. No final plan shall have any force or effect until the same has been approved by the City Council.

12-4-3. Final City Council Approval -- Effect And Time Limitations.

(a) Final approval by the City Council shall entitle the owner or developer to proceed with obtaining building permits, notification to tenants, preparing documents for recording, and otherwise proceed with the project with all aspects being in conformance with the conditions of approval and subject to certification and recording. The sale of condominium units, the recording of records of survey and the recording of the declaration, however, shall not be accomplished prior to final approval by the City Council, approval of public improvements and/or approval of the improvement bond and signing by the Mayor.

(b) Final City Council approval shall expire and become null and void one (1) year from the date of approval unless approval of public improvements and /or approval of the improvement bond has been made in conformance with the provisions set forth herein.

CHAPTER 12-5. APPEALS.

12-5-1. Rules And Procedures For Appeals. The following rules, procedures and requirements shall control and govern appeals from any decision of the Planning Commission or City Council.

(1) Appeal may be made to the City Council from any decision, determination or requirement of the Planning Commission by filing with the City Recorder a notice thereof in writing within 10 days after such decision or determination, or requirement is made. Such notice shall set forth in detail the action and grounds upon which the declarant, or other interested person is aggrieved.

(2) The City Recorder shall set the appeal for hearing before the City Council to be held within 45 days from the date of receipt of the appeal. Such hearing may, for good cause, be continued by order of the City Council. Written notice of the date set for hearing the appeal shall be mailed to the appellant at least 10 days before the appeal hearing date. After hearing the appeal, the City Council may affirm, modify or overrule the decision, determination or requirement appealed and enter any such order or orders as are in harmony with the spirit and purpose of this Title. The decision of the City Council shall be made in writing.

(3) Except as may be required to protect the public health, safety and welfare, the filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending a decision of the City Council.

(4) The appellant may appeal any decision of the City Council to the District Court. Such appeal shall be made within 30 days of the rendering of a written decision by the City Council.

CHAPTER 12-6. PUBLIC IMPROVEMENTS -- PERFORMANCE BOND.

12-6-1. Completion of Improvements and Bonding. Before the record of survey plat is certified and recorded, the declarant shall complete all public improvements or shall obtain and deliver to the City a performance bond to ensure completion of public improvements on the project or conversion. Said bonding shall be in an amount not less than one hundred twenty five percent (125.0%) of the estimated costs of the public improvements, shall otherwise be in compliance with the subdivision requirements of the City, and shall be in a form approved by the City Attorney. The posting of bonds or other assurances may not be used to guarantee completion of required fire separation or correction of code violations which are deemed to be hazardous to the life or safety of occupants.

12-6-2. Failure to Comply -- Expiration of Approval. If the requirements set forth in Section 12-6-1 above are not met by the declarant within six months from the date of City Council approval, such approval shall be null and void. This time period may be extended for additional six-month periods by the City Administrator. The declarant must petition for an extension prior to the expiration of the original six months, or an extension previously granted. An extension may be granted only if the City Administrator finds that the extension will not be detrimental to the City. If any of the fees charged as a condition of subdivision approval, including, but not limited to, inspection fees, parks fee, flood control fees, as well as the amounts the City uses to estimate bonds to insure completion of the improvements, have increased, the City Manager may require that the subdivider pay such increases as a condition of granting the extension.

CHAPTER 12-7. RECORDING OF RECORD OF SURVEY MAP.

12-7-1. Mayor's Signature and Recording After Approval. After City Council approval, completion of the required public improvements or filing of the bond agreement described in this Ordinance, and signing of the plat by the Mayor, the plat shall be presented by the City to the Tooele County Recorder for recordation.

12-7-2. Effect of Record of Survey Map. No record of survey map shall have any force or effect until the same has been approved by the City Council, signed by the Mayor, other appropriate signatures affixed, and the survey plat has been duly recorded in the office of the County Recorder of Tooele County.

CHAPTER 12-8. CONDOMINIUM CONVERSION

12-8-1. Report Of Property Condition. As an element of any application for a condominium which includes the conversion of existing structures, the owner or developer shall submit a Report of Property Condition which is intended to insure that the standards of the declaration appropriately address existing and future conditions related to maintenance, upkeep and operation.

(1) The report of property condition shall contain the following information:

(a) The age of the building or buildings, with copies of original building plans and a disclosure of whether or not the actual building conforms to the plans.

(b) Condition of structural elements, including roof, foundations, walls, mechanical systems, electrical system, plumbing system and heating system. The plan shall include details showing which parts of the systems are maintained in common and which are maintained by individual units.

(c) Size of water service lines from meter to main and from main to buildings.

(d) Size and location of sewer laterals.

(e) Capacity of electrical service for each unit measured in amps.

(f) Condition of paving materials on private streets, if any.

(g) Condition of paving or surfacing material on driveways, parking areas, sidewalks, curbs, etc.

(h) Detailed plan of parking and traffic circulation.

(i) Condition of paint and/or exterior surfaces of all buildings and structures.

(j) All known conditions constituting deficiencies.

(k) All known conditions which may require repair or replacement within the next succeeding five-year period.

(2) The report of property condition may be referred back to the applicant by the City for additional detail as is necessary to adequately evaluate the physical condition of the building, equipment and premises.

12-8-2. Report Of Building Official.

(1) At the time of submission of an application for a condominium which involves the conversion of any existing buildings, the Building Official shall make an inspection of the proposed condominium project to determine compliance with the life-safety provisions of the Uniform Building Code as adopted by the City.

(2) Prior to Planning Commission consideration of a condominium project involving conversion of existing buildings, the Building Official shall submit a report to the Planning Commission, with a copy to the City Administrator, specifying any deficiencies of life-safety standards of the Uniform Building Code which are found to exist in the project. This report of the Building Official shall be submitted as an element of the "Report of Property Condition."

12-8-3. Tenant Notice Of Conversion.

(1) 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 non-residential structures or to a residential structure that was vacant upon acquisition; 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) The Notice of Conversion shall include the following:

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

(b) The estimated dates of termination of occupancy by tenants which shall not be less than 90 days from the date of notice; and an indication of the approximate dates of construction which shall not be less than 120 days from the date of notice.

12-8-4. Submission Of Notice Verification. Prior to or in conjunction with submission of documentation for final approval and recording, the owner or developer shall submit to the City a copy of said notice together with a list identifying names and apartments or unit numbers, for all tenants within the condominium conversion project. The notice, copy and list shall also be accompanied by an affidavit certifying that all tenants within the condominium project have been personally delivered a copy of the notice or mailed said notices by registered or certified mail, return receipt requested. The record of survey map shall not be recorded until said copy of notice, list and affidavit have been received by the City and filed with the City Recorder.

CHAPTER 12-9. DESIGN STANDARDS.

12-9-1. Minimum Standards Required. To achieve the purposes and objectives of this Ordinance, all proposals for a new condominium development, including conversions shall be made pursuant to the provisions of this Chapter. Where the provisions of this Chapter cannot reasonably be complied with in the case of condominium conversions due to the design and location of existing

structures and/or roads, the Planning Commission may, within its sole discretion, waive some, or all, of these provisions. The standards and criteria contained herein are intended to provide assurances that the geographical layout of the project is accomplished in a manner which is attractive and is not detrimental to the functioning of the project or surrounding areas; and that the contents of the declaration assure proper operation, construction, maintenance and upkeep of all utilities, facilities, recreation areas, roads and parking areas within the development. In addition to the requirements specified in this Chapter, condominiums shall comply with all requirements of the City's subdivision ordinance.

12-9-2. Parking And Storage Requirements. Each condominium development in the City shall meet the following parking and storage requirements.

(1) Each unit in a condominium development, irrespective of size, shall have at least two (2) parking stalls.

(2) Each unit in a condominium development shall have at least one storage unit.

(3) Unless separate storage space is provided in the development, parking of trailers, recreational vehicles and boats shall be allowed only in approved parking spaces. In order to accommodate emergency vehicle access, said vehicles shall be limited to a size which fits within the approved parking spaces.

12-9-3. Utility Requirements. Each condominium development in the City shall comply with the following regulations for utilities.

(1) Each condominium unit within a development shall be separately metered for electricity and water, and if applicable for gas, unless the declarations provide for the Homeowners Association to pay the cost of services and prorate those costs to unit owners on an equitable basis. Such declaration must disclose to the unit owners that non-payment of utility bills by the Association may result in loss of utility service.

(2) Each unit shall be provided with readily-accessible individual shutoff valves, safety devices or switches for water, gas and electrical services.

12-9-4. Mechanical And Heating Requirements. Each condominium development in the City shall comply with the following regulations mechanical and heating systems.

(1) Each condominium unit shall be equipped with its own heating system, except where a central heating system is present.

(2) Each condominium unit shall be provided with its own means of controlling temperature in that unit when the building utilizes a central heating plant or system. All mechanical work and repairs shall be completed under a permit duly issued by the City and shall comply with all applicable building, health and fire codes.

12-9-5. Geographical Layout Requirements.

(1) The area proposed for a condominium development shall be in one ownership during development to provide for full supervision and control of said development, and to insure conformance with these provisions and all conditions imposed upon the preliminary and final development plans. No condominium development shall have an area less than one (1) acre.

(2) The final development plan shall be prepared by a design team composed of an architect, a landscape architect, and/or an engineer or land surveyor, all licensed to practice in the State of Utah.

(3) Residential density as measured by dwelling units per acre within a condominium development may exceed that permitted by the underlying zone up to a maximum of 20 percent, provided that the density does not exceed the maximum recommended in the City Master Plan. The Planning Commission and the City Council both must find, however, that any increase in density will be compensated by increased amenities and improved design which, in their opinion, are proportional to the density increase which it authorizes.

(4) Dedication and improvement of streets shall be made in accordance with the requirements of the City and further as may be determined by the City Council upon the recommendation of the Planning Commission for special circumstances where it is necessary to serve the vehicular and pedestrian needs of the proposed development and of the City. Said streets shall be constructed to standards set forth for various classes of streets by the City and shall be dedicated to the City as public streets. In instances of severe topography, security requirements or other special circumstances which make dedication or development to City standards impractical or undesirable, the City Council, upon recommendation of the Planning Commission, may allow development of streets to special standards specifically approved as part of the final development plan. Maintenance and repair of non-dedicated streets shall be the perpetual responsibility of the Owners Association, it being understood that this responsibility shall not be borne by the City or any other governmental agency or body.

(5) With the following exceptions, dwellings and permitted structures may be located as approved in the final development plans. Locations and arrangements of buildings on the lot should be accomplished in a manner that will best utilize the lot area and create an attractive living environment. The following exceptions shall be considered as minimum requirements as they apply:

(a) Garages with entrances facing directly on public streets, whether in a front or side yard, shall be setback at least 20 feet from such streets.

(b) Setbacks shall be maintained along the peripheral property lines of the planned development which shall be equal to that required by the zone on the property immediately adjacent thereto. Buildings located on the periphery of the development shall be limited to a maximum height of two stories.

(c) In those instances where a proposed condominium development will front upon one or more existing streets, the setback from the street shall be equal to that required by the most restrictive zoning on property immediately adjacent along the same street frontage.

(6) Open space and recreation requirements: Each project shall meet the following standards for open space and recreational areas:

(a) Open space shall be provided and shall not be less than 50 percent of the site area in residential condominiums which contain multiple unit structures having three or more units per structure. Residential condominiums which consist of structures containing two or less units shall provide not less than 40 percent open space. The required open space shall be land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required setbacks. Said open space shall be devoted to landscaping, preservation of natural features, patios and recreational areas and facilities. Reduction may be made to this percentage of required open space by the

Planning Commission and upon a showing that the open space in the site area will provide amenities; which will substantially meet the needs of future residents.

(b) Common open space shall comprise at least 50 percent of the required open space and shall be so designed for uses including, but not limited to, recreational, park or environmental amenity for common enjoyment and use by all residents.

(c) Open space in commercial and industrial condominiums shall be not less than 15 percent of the total site. Reduction may be made to this percentage of required open space by the Planning Commission if it can be demonstrated that proposed plan will still achieve the objectives of this Title if the reduction is allowed.

(d) Preservation, maintenance, and ownership of required open space within the development shall be accomplished by granting to City a permanent open space easement on or over the said private open spaces to guarantee that the open spaces remain perpetually in recreational use with ownership and maintenance being the responsibility of the owner or an Owner's Association established with articles of incorporation and bylaws which are satisfactory to City.

CHAPTER 12-10. CONSTRUCTION LIMITATIONS.

12-10-1. Construction in Accordance With Plans. Upon approval of a condominium development, construction shall proceed only in accordance with the plans and specifications approved by the Planning Commission and City Council, and in conformity with any conditions attached their approvals.

12-10-2. Amendments. Amendments to approved plans and specifications for a condominium development shall be approved by the Planning Commission and City Council and shown on the approved plans, as amended.

12-10-3. Permits. The Building Inspector or any other City department shall not issue any permit for any proposed building, structure, activity or use within the project unless such building, structure, activity or use is in accordance with the requirements adopted by the City for multiple family dwelling units, as well as the approved development plan and any conditions imposed in conjunction with its approval.

CHAPTER 12-11. ENFORCEMENT.

12-11-1. Enforcement.

(1) It is unlawful for any person to sell, or contract to sell, 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 Ordinance and other provisions of law, have been finally approved by the City Council and duly recorded in the office of the County Recorder.

(2) Any map, permit or license issued or approved in conflict with the provisions of this Ordinance shall be null and void.

(3) Any developer, agent of a developer, owner, successor-in-interest of a developer or owner, tenant, purchaser, builder, contractor or other person who violates any of the provisions of

this Chapter or any conditions imposed pursuant to this Title shall be deemed guilty of a class "B" misdemeanor.

(4) The City shall have the authority to enforce this Ordinance against violations thereof by actions including but not limited to the following:

(a) To serve notice requiring the cessation or correction of any action in violation of this Ordinance upon the developer, 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 deny the condominium project application.

(c) To maintain an action for injunctive relief to restrain, abate or cause the correction of such violation.

(d) To institute criminal proceedings.