

ORDINANCE NO. 2019-13

AN ORDINANCE AMENDING THE CONDOMINIUM REQUIREMENTS OF THE HEBER CITY MUNICIPAL CODE.

BE IT ORDAINED by the City Council of Heber City, Utah, that Chapter 17.19 of the Heber City Municipal Code is **amended** to read as follows:

17.19 Condominiums

- 17.19.010 Purpose
- 17.19.020 Definitions
- 17.19.030 Approval Required
- 17.19.040 Submission Of Application
- 17.19.050 Review By The Planning Commission
- 17.19.060 City Council Final Approval
- 17.19.070 Unlawful To Sell Or Lease

17.19.010 Purpose

Utah State Code establishes condominiums as a form of subdivision and requires that all condominium projects be reviewed by the Planning Commission and the City Council. Commercial and industrial condominiums are permitted in any zone that permits commercial and industrial uses. Residential condominiums are permitted only in zones that specifically permit residential condominium dwelling units or for legal non-conforming multi-family dwellings.

17.19.020 Definitions

For the purposes of this ordinance, the following definitions shall apply:

- A. "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.
- B. "Condominium or Condominium Projects" shall mean a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed 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.
- C. "Condominium Unit" shall mean a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference to a condominium unit includes both physical unit together with its appurtenant individual interest.

- D. "Conversion" shall mean a proposed change in the type of ownership of a parcel or parcels of land and/or existing structures from single ownership 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.
- E. "Declaration" shall mean a recorded declaration containing covenants, conditions, and restrictions relating to the condominium project, which shall be prepared in conformance with provisions of Section 57-8-10, Utah Code, as amended.

17.19.030 Approval Required

Prior to the construction or conversion of any building or use as determined as a condominium, a survey map or project plan shall be submitted to and be approved by Heber City in conformance with the procedures, requirements, and standards contained within the Heber City Code and the requirements of the Utah Condominium Ownership Act.

17.19.040 Submission Of Application

The owner or developer of a proposed condominium project or conversion project shall file an application with the Planning Commission. Such application shall be accompanied by and be in accordance with the following:

- A. The application or survey map shall be drawn to scale in accordance with the Heber City subdivision plan process and current Standards and Specifications as adopted by the City. Such survey map or application shall be prepared by a licensed engineer or architect and shall certify the final condominium plat.
- B. The proposed project shall be at a scale no less than 1 inch equals 40 feet and shall designate the location of all buildings present, needed or proposed. Further, present and proposed street right of ways, utilities, irrigation ditches, common areas including the location of utility lines and easements, location of storage, parking, driveways, pedestrian ways, curb, gutters, walls, fences and landscaping.
- C. The petitioner shall prepare and provide copies of the condominium declaration and bylaws or property owners organization.
- D. Where conversions of existing buildings are proposed as part of the project, a property report containing information shall be submitted as part of the application together with a plan of all proposed improvements and repairs.
- E. To assist the City in defraying the cost involved in the publication and review of a condominium project, a fee shall be submitted with the application in accordance with Heber City's fee schedule as adopted by the Heber City Council.

17.19.050 Review By The Planning Commission

The Planning Commission shall review the proposed application and related documents to determine whether the project conforms with all appropriate requirements, Standards and Specifications of the City and is in conformance with the Utah Condominium Ownership Act.

- A. If the Planning Commission finds that there are any violations to any of the applicable ordinances, building codes, or similar requirements, the Planning Commission may hold the application for the condominium project until such time that all violations have been corrected.
- B. The proposed project shall be consistent with the International Fire Code and Adopted Building Codes.
- C. The Planning Commission may require additional parking that shall be based on occupancy levels and proposed customer demand. But in no way shall it be less than what is required under the zoning district in which the project is proposed.
- D. The Planning Commission may also require additional exits or driveways including the approval of shared driveways.
- E. The Planning Commission may require additional open space and landscaping to assure appropriate buffering and compatibility with adjacent uses.
- F. Utility meters shall be installed to the development and/or each condominium unit as specified by the applicable utility.
- G. Water meters shall be installed according to City Standards and Specifications at street right-of-ways.
- H. All utilities and utility lines shall be placed within the public right-of-way. However, approved public easements may be permitted if the Planning Commission deems them essential for the feasibility of the project and the City Council approves said easement.
- I. Each unit shall be provided with readily accessible individual shutoff valves, safety devices, or switches for water, gas and electrical services.
- J. The Planning Commission may recommend to the City Council any condition which they deem appropriate. Such conditions may include corrections of violation of building, zoning, health, fire, or similar codes, appropriate amendments to declaration, bylaws or amendments to the record of survey map and project plan which may enhance or protect the environment of the project and the neighborhood in which it is located.

17.19.060 City Council Final Approval

Upon receipt of the recommendations and findings of the Planning Commission, the City Council shall consider approval or denial of the proposed project. Approval of a condominium project shall remain in effect and expire pursuant to Section 17.16.010(I).

17.19.070 Unlawful To Sell Or Lease

It is unlawful for any person, firm, corporation, partnership, or association to sell, contract to sell, or to lease any unit of any condominium or any other portion thereof until final record of survey plats, in full compliance with the provisions of this Ordinance, have been certified and

signed by the Mayor, the Planning Commission Chair, City Engineer and City Attorney, attested by the City Recorder and duly recorded in the Office of the County Recorder.

BE IT ORDAINED by the City Council of Heber City, Utah, that Section 18.112.030 of the Heber City Municipal Code is **amended** to read as follows:

18.112.030 Additions, Property Divisions, Enlargements

- A. A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area, or yard requirements shall not be added to or enlarged in any manner, or moved to another location on the lot except as provided by subsection B2 of this Section;
- B. A building or structure occupied by a nonconforming use, or a building or structure nonconforming as to height, area, or yard regulations may be added to or enlarged upon receiving a permit authorized by the Board of Adjustment, provided that the Board, after a public hearing, shall find:
 - 1. That the addition or enlargement of the building or structure will be in harmony with one or more of the purposes of this title;
 - 2. That the proposed change does not impose any unreasonable burden upon the land located in the vicinity of the nonconforming use of structure nor does it violate the development policies adopted in the General Plan of Heber City;
 - 3. Addition or enlargement must meet current ordinance.
- C. If a nonconforming property changes to a conforming use then the nonconforming use will cease;
- D. In zones where livestock raising, keeping or pasturing animals is allowed and a nonconforming use is split under the provision of Title 17, then Section C above will pertain to any new parcel that is built on for housing, commercial use, etc. Any remaining vacant pieces may continue the nonconforming use if the remaining parcel(s) is/are large enough to contain the continuation of that use as determined by the Planning Commission at the time the property is divided under the provisions of Title 17.
- E. Non-conforming rental based multi-family dwellings (i.e. apartments, duplexes, triplexes, fourplexes, etc.), may be converted into owner occupied dwellings through a condominium plat as per Title 17, provided:
 - 1. The buildings shall meet or be upgraded to meet the requirements of the building code as determined by the building code. The buildings shall be upgraded prior to recording of the plat or a bond posted in an amount equal or greater than the cost of the required building improvements;
 - 2. The requirements of the Subdivision Ordinance shall be met, which may require the installation of public improvements and utility modifications to meet current standards; and
 - 3. The site shall be improved as necessary to meet the parking requirements and landscaping requirements of Title 18.

BE IT ORDAINED by the City Council of Heber City, Utah, that Subsection 18.108.110 R. of the Heber City Municipal Code is **adopted** to read as follows:

R. The ownership of Owner Occupied Accessory Apartments shall not be separated from a principal dwelling.

This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this 7 day of May 2019.

	AYE	NAY	ABSENT	ABSTAIN
Jeffery M. Bradshaw	<u>Non-Voting</u>	<u> </u>	<u>Presiding Officer</u>	<u> </u>
Jeffrey Smith	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ronald R. Crittenden	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Heidi Franco	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Wayne Hardman	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

APPROVED:

Jeffery M. Bradshaw
Mayor / ~~Keltech L. Potter~~
Pro-tem Jeffery Bradshaw



ATTEST:

Irina Cooke Date: 5/7/2019
RECORDER