

CHAPTER VI PROCEDURE

Section 613 Condominiums.

1. All and any condominium projects shall be considered to be a subdivision and shall be subject to the same requirements and review procedures contained in this Ordinance, except as provided in this Section.
2. Any record of survey map or supplement thereto prepared for a condominium project shall be considered to be a subdivision map or plat with respect to:
Such real property or improvements, if any, as are intended to be dedicated to the use of the public in connection with the creation of the condominium project or portion thereof concerned; and,
Those units, if any, included in the condominium project or portion thereof concerned which are not contained in existing or proposed buildings.
3. All and any condominium projects shall comply with all applicable zoning ordinances and building and sanitary codes of Daggett County.
4. The procedure for review of any condominium project shall be the same as that contained in this Ordinance for subdivision review.
5. Rights of Ownership of Condominium Units. Each unit owner shall be entitled to the exclusive ownership and possession of his unit. The owner of a time period condominium unit shall be entitled to the exclusive ownership and possession of the physical unit to which his time period relates and shall be entitled to the use and enjoyment of the common areas and facilities during, but only during such annually recurring part or parts of a year as describe and define the time period unit concerned in the declaration.
6. Common Areas and Facilities.
 - A. Each unit owner shall be entitled to an undivided interest in the common areas and facilities in the percentages or fractions expressed in the declaration. The declaration may allocate to each unit an undivided interest in the common areas and facilities proportionate to either the size or par value of such unit. Otherwise, the declaration shall allocate to each unit an equal undivided interest in the common areas and facilities, subject to the following exception: Each convertible space depicted on the record of survey map shall be allocated an undivided interest in the common areas and facilities proportionate to the size of such space vis-à-vis the aggregate size of all units so depicted, while the remaining undivided interest in the common areas and facilities allocated in accordance with this subsection shall add up to one if stated as fractions or to 100 percent if stated as percentages. If an equal undivided interest in the common areas and facilities is allocated to each unit, the declaration may simply state that fact and need not express the fraction or percentage so allocated. Otherwise, the undivided interest allocated to each unit shall be reflected by a table in the

declaration, or by an exhibit or schedule accompanying the declaration and recorded simultaneously with it, containing columns. The column shall identify the units, listing them serially or grouping them together in the case of units to which identical undivided interests are allocated. Corresponding figures in the second and third columns shall set forth the respective sizes or par values of those units and the fraction or percentage of undivided interest in the common areas and facilities allocated thereto.

B. Except as otherwise expressly provided by this act, the undivided interest of each unit owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended declaration duly recorded. The undivided interest in the common areas and facilities shall not be separated from the unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. A time period unit may not be further divided into shorter time periods by a conveyance or disclaimer.

7. Prior to the conveyance of any unit in a condominium project, there shall be recorded with the Daggett County Recorder, a declaration containing covenants, conditions, and restrictions relating to the project, which shall be enforceable equitable servitude's where reasonable, and shall run with the land. Such servitude's unless otherwise provided, may be enforced by any unit owner, and his successors in interest.

The declaration for **every** condominium project shall contain the following:

A. A description of the land or interests in real property included within the project

B. A description of the building if any, stating the number of stories and basements and the number of units and the principal materials of which it is or is to be constructed and a description of all other significant improvements contained or to be contained in the project.

C. The unit number of each unit and any other data necessary to its proper identification.

D. A description of the common areas and facilities.

E. A description of the limited common areas and facilities, if any, stating to which units such use is reserved. Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or other apparatus intended to serve a single unit, but located outside the boundaries of it, shall constitute a limited common areas and facilities appertaining to that unit exclusively, whether or not the declaration so provides.

F. The percentage or fraction of undivided interest in the common areas and facilities appurtenant to each unit and its owner for all purposes including voting, derived and allocated in accordance with this Section.

G. A statement of the purposes for which the units are intended and restricted as to use, if any use restrictions are to apply.

H. The name of a person to receive service of process, in the cases hereinafter provided, together with the residence or place of business of such person which

shall be within the city or county in which the property is located.

I. The method by which the declaration may be amended consistent with the provisions of this act.

J. Any further matters in connection with the property which the person or persons executing the declaration may deem desirable to set forth consistent with this act.

K. A statement of intention that the provisions of this act shall apply to the property.

The record of survey map recorded with the declaration may provide or supplement the information required under A,B,C,D, and E of this subsection 7.

8. If the condominium project contains any convertible land, as defined to mean the building site wherein 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, the declaration to be recorded with Daggett County Recorder shall **also** contain the following:

A. A legal description by metes and bounds of each convertible land within the condominium project.

B. A statement of the maximum number of units that may be created within each such convertible land.

C. A statement with respect to each such convertible land of the maximum percentage of the aggregate land and floor area of all units that may be created therein, the use of which will not or may not be restricted exclusively to residential purposes. These statements need not, however, be supplied if none of the units on other portions of the land within the project are restricted exclusively to residential use.

D. A statement of the extent to which any structure erected on any convertible land will be compatible with structures on other portions of the land within the condominium project in terms of quality of construction, the principal materials to be used and architectural style.

E. A description of all other improvements that may be made on each convertible land within the condominium project.

F. A statement that any units created within each convertible land will be substantially identical to the units on other portions of the land within the project or a statement describing in detail what other type of units may be created therein.,

G. A description of the declarant's reserved right, if any, to create limited common areas and facilities within any convertible land, in terms of the types, sizes, and maximum number of the limited common areas within each such convertible land.

The record of survey map recorded with the declaration may provide or supplement the information required under A, D, E, F, and G of this subsection 8.

9. If the condominium project is an expandable condominium project to which additional land or an interest in it may be added in accordance with the declaration, the declaration shall also contain the following:

A. The explicit reservation of an option to expand the project.

B. A statement of any limitations on this option including, without limitation, a statement as to whether the consent of any unit owners shall be required, and if so, a statement as to the method by which this consent shall be ascertained, or a statement that there are no such limitations.

C. A time limit, not exceeding seven years from the recording of the declaration, upon which the option to expand the condominium project shall expire, together with a statement of the circumstances if any, which will terminate this option prior to expiration of the time limits so specified.

D. A legal description by metes and bounds of all land that may be added to the condominium project (hereinafter referred to as "additional land")

E. A statement as to whether, if any of the additional land is added to the condominium project, all of it or any particular portion of it must be added; and if not, a statement of any limitations as to what portions may be added or a statement that there are no such limitations.

F. A statement as to whether portions of the additional land may be added to the condominium project at a different time, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds thereof and/or regulating the order in which they may be added to the condominium project.

G. A statement of any limitations as to the locations of any improvement that may be made on any portions of the additional land added to the condominium project, or a statement that no assurances are made in that regard.

H. A statement of the maximum number of units that may be created on the additional land. If portions of the additional land may be added to the condominium project and the boundaries of those portions are fixed in accordance with "F" of this Section "9", the declaration shall also state the maximum number of units that may be created on each such portion added to the condominium project. If portions of the additional land may be added to the condominium project and the boundaries of those portions are not fixed in accordance with "F" of this Subsection "9", then the declaration shall also state the maximum number of units per acre that may be created on any such portion added to the condominium project.

I. A statement, with respect to the additional land and to any portion of it that may be added to the condominium project, of the maximum percentage of the aggregate land and floor area of all units that may be created on it the use of which will not or may not be restricted exclusively to residential purposes.

These statements need not, however, be supplied if none of the units on the land originally within the project are restricted exclusively to residential use.

J. A statement of the extent to which any structures erected on any portion of the additional land added to the condominium project will be compatible with structures on the land originally within the project in terms of quality of construction, the principal material to be used and architectural style, or a statement that no assurances are made in those regards.

K. A description of all other improvements that will be made on any portion of the additional land added to the condominium project, or a statement of any limitations as to what other improvements may be made on it, or a statement that no assurances are made in that regard.

L. A statement that any units created on any portion of the additional land added to the condominium project will be substantially identical to the units on the land originally within the project, or a statement of any limitations as to what types of units may be created on it, or a statement that no assurances are made in that regard.

M. A description of the declarant's reserved right, if any, to create limited common areas and facilities within any portion of the additional land added to the condominium project, in terms of the types, sizes and maximum number of such limited common areas within each such portion, or a statement that no assurances are made in those regards.

The record of survey map recorded with the declaration may provide or supplement the information required under D, E, F, G, J, K, L, and M of this subsection "9"

10. Additional requirements for declarations for contractible condominiums.

Contractible condominium projects or those from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration. 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. Declarations for contractible condominium projects shall also contain the following:

A. The explicit reservation of an option to contract the condominium project.

B. A statement of any limitations on this option, including without limitation, a statement as to whether the consent of any unit owners shall be required, and if so, a statement as to the method by which this consent shall be ascertained; or a statement that there are no such limitations.

C. A time limit, not exceeding seven years from the recording of the declaration, upon which the option to contract the condominium project shall expire, together with a statement of the circumstances, if any, which will terminate this option prior to expiration of the time limit so specified.

D. A legal description by metes and bounds of all land that may be withdrawn from the condominium project (hereinafter referred to as "withdrawable land").

E. A statement as to whether portions of the withdrawable land may be withdrawn from the condominium project at different times, together with any limitation fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds thereof and/or regulating the order in which they may be withdrawn from the condominium project.

F. A legal description by metes and bounds of all the land within the condominium project to which the option to contract the project does not extend.

The record of survey map recorded with the declaration may provide or supplement the information required under D, E, and F, of this subsection "10".

11. Additional requirements for declarations for leasehold condominiums.

Leasehold condominium projects are those where all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which the 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 shall not be deemed leasehold condominium.

Declarations for leasehold condominium projects shall include the following:

A. Recording information enabling the location of each lease in the official records of the County Recorder.

B. The date upon which each lease is due to expire.

C. A statement as to whether any land or improvements will be owned by the unit owners in fee simple, and if so, either: (1) a description of the same, including without limitation, a legal description by metes and bounds of any such land; or (2) a statement of any rights the unit owners shall have to remove these improvements within a reasonable time after the expiration or termination of the lease or leases involved, or a statement that they shall have no such rights.

D. A statement of the rights the unit owners shall have to extend or renew any of the leases or to redeem or purchase any of the reversions, or a statement that they shall have no such rights.

After the recording of the declaration, no lessor who executed the same, and no successor in interest to this lessor, shall have any right or power to terminate any part of the leasehold interest of any unit owner who makes timely payment of his share of the rent to the person or persons designated in the declaration for the receipt of the rent and who otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease.

12. If the condominium project contains time period units, the declaration shall also contain the location of each such condominium unit in the calendar year. This information shall be set out in a fourth column of the exhibit or schedule referred to in subsection 6B of this Section, if the exhibit or schedule accompanies the declaration. The time period units created with respect to any given physical unit shall be such that the aggregate of the duration's involved shall constitute a full calendar year.

13. The declaration, bylaws, and record of survey map shall be duly executed and acknowledged by all of the owners and lessees, if any, of the land which is made subject to this section; but "owners and lessees" in the preceding clause does not include in their capacity as such, any mortgagee, any trustee, or beneficiary under a deed of trust, any other lien holder, any person having an equitable interest under any contract for the sale or lease of a condominium unit, or any lessee whose leasehold interest does not extend to any portion of the common areas and facilities.

14. The survey map.

A. A record of the survey map shall be recorded. Simultaneously with the recording of the declaration there shall be recorded a standard size, original linen (24" x 36") record of survey map with 5" x 11" recording information block, which map shall be made by a registered Utah land surveyor and shall set forth:

(1) A description of the surface of the land included within the project, including all angular and linear of the land included within the project, including all angular and linear data along the exterior boundaries of the property.

(2) The linear measurement and location, with reference to the exterior boundaries, of the building or buildings, if any, located or to be located on

the property other than within the boundaries of any convertible lands.

(3) Diagrammatic floor plans of the building or buildings, if any, 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 its identifying number or symbol, the official datum elevations 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.

(4) A description or delineation of the boundaries of any unit or convertible space not contained or to be contained in a building or whose boundaries are not to be coextensive with walls, ceilings or floors within a building, other than units located within the boundaries of any convertible lands, including the horizontal (upper and lower) boundaries, if any, as well as the vertical (lateral or perimetric) boundaries.

(5) A distinguishing number or other symbol for every physical unit identified on the record of survey map.

(6) To the extent feasible, the location and dimensions of all easements appurtenant to the land included within the project.

(7) The label "convertible space" for each such space, if any.

(8) The location and dimensions of any convertible lands within the condominium project, with each such convertible land labeled as such, and if there be more than one such land, with each labeled with a different letter or number.

(9) The location and dimensions of any withdrawable lands, with each such withdrawable land labeled as such, and if there be more than one such land, with each labeled with a different letter or number.

(10) If with respect to any portion or portions but less than all, of the land included within the project, the unit owners are to own only an estate for years, the location and dimensions of any such portion, with each labeled as a leased land, and if there be more than one such land, with each labeled with a different letter or number; and

(11) Any encroachments by or on any portion of the condominium project. Each such record of survey map shall be certified as to its accuracy and compliance with the provisions of this subsection by the land surveyor who prepared or who supervised the preparation of the same and shall be executed and acknowledged as provided in subsection 13 of this section.

B. When converting all or any portion of any convertible land or when adding additional land to an expandable condominium, the declarant shall record a new or supplemental record of survey map which shall contain the information necessary to comply to the requirements of subsection A of this subsection. In any case where less than all of a convertible land is being converted, the record of survey map shall show the location and dimensions of the remaining portion or portions of the land in addition to otherwise meeting such requirements.

C. When converting all or any portion of any convertible space into one or more units or limited common areas and facilities, and declarant shall record, with regard to the structure or portion of I constituting that convertible space, a supplemental

record of survey map showing the location and dimensions of the vertical and horizontal boundaries of each unit formed out of this space. The supplemental map shall be certified as to its accuracy and compliance with this subsection by the land surveyor who prepared or who supervised the preparation of it.

D. In interpreting the record of survey map or any deed or other instrument affecting a building or unit, the boundaries of the building or unit constructed in substantial accordance with the record survey map shall be conclusively presumed to be the actual boundaries rather than the description expressed in the record of survey map, regardless of the settling or lateral movement of the building and regardless of minor variance between boundaries shown on the record of survey map and those of the building or unit.