

CHAPTER 29

CONDOMINIUM PLATTING REGULATIONS

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CHAPTER 29

CONDOMINIUM PLATTING REGULATIONS

ARTICLE I. AUTHORITY AND PURPOSE

SECTION 29-1. AUTHORITY.

This Ordinance is adopted pursuant to and in accordance with the authority vested in the City Council of the City of Kemmerer, by the statutes of the State of Wyoming.

SECTION 29-2. SHORT TITLE.

This Ordinance shall be known, cited and referred to as the Condominium Platting Regulations of the City of Kemmerer, Wyoming.

SECTION 29-3. PURPOSE .

These regulations have been promulgated and adopted with the following purposes in mind:

- (a) To protect and provide for the public health, safety, and general welfare of present and future residents of the City of Kemmerer, Wyoming.
- (b) To establish adequate and accurate records of condominium lands and buildings.
- (c) To provide for the harmonious development of the City of Kemmerer and to insure that the development is in accord with a duly adopted Comprehensive Plan.
- (d) To encourage the innovative use of land.
- (e) To protect the character and value of condominium lands and buildings throughout the City of Kemmerer.

ARTICLE II. ADMINISTRATION

SECTION 29-4. APPLICATIONS AND EXEMPTIONS.

- (a) Application.
 - (1) These regulations shall apply to all of the lands within the boundaries of the City of Kemmerer, Wyoming, as they shall from time to time be amended.
 - (2) Every owner or proprietor of any tract or parcel of land that shall hereafter construct a condominium, or convert land and improvements to condominium status, shall submit a condominium plat or plats in accordance with these regulations. No person shall commence the physical layout or construction on the ground of a condominium without first obtaining the approval of the City Council in the form of an approved condominium plat.
 - (3) These regulations shall apply to any land and improvements where portions of

which are designated for separate ownership and the remainder of which is designated for common ownership by the owners of these portions.

- (4) A condominium proposal consisting of a land subdivision may comply with plat requirements for the Subdivision Regulations and may submit his condominium plat and subdivision plat concurrently for Zoning Board consideration.

(b) Exemptions

- (1) These regulations shall not apply to:
 - (i) A condominium development which existed prior to the effective date of these regulations, unless the number of condominium units is increased within an existing development.
 - (ii) Any land subdivisions consisting solely of existing new townhouse and row house developments.
 - (iii) A condominium development consisting solely of mobile homes.

SECTION 29-5. ADMINISTRATION AND ENFORCEMENT.

(a) Administration

- (1) These regulations shall be administered by the City of Kemmerer Zoning Department.
- (2) All plats submitted to the City Council of the City of Kemmerer shall first have been examined by the Zoning Department and the Zoning Board in accordance with the procedures established by these regulations. As part of their examination, the Department and the Board may consult with other public or private agencies to determine whether or not the plat, as proposed, will contribute to the orderly growth and development of the city. The Zoning Department shall receive all materials required to be submitted by these regulations. Condominium plats, supporting materials and the Departments recommendations thereon shall be reviewed and evaluated by the Zoning Board. After concluding its examination, the Board shall notify the developer of its decision in writing and communicate its findings and recommendation to the City Council in writing. The actions of the department, the Board and the council shall be governed by the procedures and schedules hereinafter set forth.

(b) Appeals.

Any developer or a condominium plat aggrieved by the action of the Zoning Board or the administrative staff of the City of Kemmerer in their administration of these regulations may request a hearing before the City Council. The request shall be in writing and shall be submitted within thirty (30) days of the action or decision appealed from and shall state the specific relief which the developer seeks. Within thirty (30) days of the receipt of such request, the City Council shall hold a hearing to determine the proper disposition

of the matter. At the hearing, the Council shall consider not only the developers appeal, but also the written and verbal comments of the Zoning Board, agency or person appealed from. The Council shall either reaffirm or modify the decision of the Board, the agency or person and note the decision in the record of its hearing. The developer may then proceed with his condominium plat based upon the decision of the Council. This decision shall be binding upon all agencies and administrative personnel of the City of Kemmerer.

(c) Variances

- (1) When it can be shown that in the case of a particular condominium plat, strict compliance with the provisions of these regulations would cause undue hardship, the City Council may authorize a variance to these requirements. The granting of any variance shall be based upon findings by the council that:
 - (i) The developer is proceeding in good faith.
 - (ii) There are unusual topographical or other special circumstances associated with the property which are not the result of any action of the developer and which prohibit the use of the property in a manner similar to the use of adjacent or nearby properties.
 - (iii) The variance is necessary for reasonable development of the property in question and will alleviate a clearly demonstrable hardship.
 - (iv) The variance will not nullify the intent or purpose of these regulations.
 - (2) Any variance granted shall constitute the minimum adjustment to alleviate the hardship.
 - (3) A request for a variance may be submitted only after the Zoning Board has formally reviewed the Condominium Plat and has either 1) recommended disapproval because the Plat does not conform to these regulations, or 2) conditionally approve the Plat specifying those amendments which must appear on the Plat in order for it to be approved. The developer may seek relief from the specific provisions of these regulations with which they cannot comply.
 - (4) All requests for variance shall be submitted in writing to the Zoning Board. After the Board makes its comments and recommendations on the variance, then the request will be forwarded to the Council for a decision. In granting a variance the Council may impose such conditions as will insure substantial compliance with the objectives and standards of these regulations. The findings and action on each variance and any conditions imposed shall be recorded in the minutes of the Council and a copy thereof provided to the Zoning Department.
- (d) A certificate of occupancy shall not be issued for any condominium until the plat is approved by the City Council and recorded in the Office of the County Clerk.
- (e) Penalties. Any person who violates any provision of these regulations and any person who, as an agent for the developer, offers for sale any condominium unit without first complying with the provisions of these regulations shall upon conviction be fined and/ or imprisoned as provided for by the laws of the State of Wyoming. Each day of violation constitutes a new offense.

- (f) Administrative Liability. The City shall hold harmless the Zoning Department, other agencies and officials and their official agents and representatives, when acting in good faith and without malice, from all personal liability for any damage that may accrue to any person or property as a result of any act required by these regulations, or for the omission of any act on the part of the Department, agency, or official or their official agents in the discharge of their duties hereunder. Any suit brought against the City or the City Administration because of any act or omission in the carrying out of the provisions of these regulations shall be defended by the City's legal department through final determination of such proceedings.

SECTION 29-6. AMENDMENTS.

Any provision of these regulations may be amended from time to time by the City Council, only after any such amendment has been reviewed by the Board and its recommendation received.

SECTION 29-7. SEVERABILITY.

If any section of this regulation be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separately and apart from the remaining provisions of these regulations, said section to be completely severable from the remaining provisions of these regulations and the remaining provisions of these regulations shall remain in full force and effect.

SECTION 29-8. LEGAL STATUS.

No Condominium Plat shall be approved unless it conforms to the provisions contained in these regulations. Whenever there is a discrepancy between the requirements of these regulations and any other official City regulations, the most restrictive shall apply.

ARTICLE III. PLATTING AND PERMITTING

SECTION 29-9. PROCEDURE AND REQUIREMENTS FOR PLATTING.

- (a) Pre-Application
- (1) Prior to the submission of a Condominium plat, as required by these regulations, the developer shall contact the Zoning Department, the City Engineer, and other administrative personnel or public or private agencies to determine:
- (i) Procedures and requirements for filing the Condominium Plat or Plats.
 - (ii) Availability of water and sewer and requirements when public systems are not readily available, in the case of new condominium construction.
 - (iii) Zoning requirements on the property.
 - (iv) Requirements of duly adopted Comprehensive Plan

- (v) The location and extent of any floodplains as shown by maps in the Zoning Department, in the case of new condominium construction.
 - (vi) Soil types and problems on the property as shown on available soil survey maps prepared by the NRCS, in the case of new condominium construction.
- (2) As part of this contact, the developer may discuss with the Zoning Department or any other appropriate agency the tentative condominium proposal.
 - (3) The developer may request that the Zoning Board review and comment on a Sketch Plat prior to his preparation of a Condominium Plat. The Zoning Board shall make such a review and make their comments known to the developer in writing within five (5) days from the date of review.
 - (4) The purpose of this pre-application procedure is to determine any problems with the proposed condominium development before expenses are incurred in the preparation of a condominium plat. No official action is required of the Zoning Department or other agencies other than to offer appropriate comments on the proposal.

(b) Condominium Plat

- (1) Condominium Plats shall be submitted in nine (9) black line copies and a mylar copy drawn in black ink. To the Zoning Department. The condominium plat shall consist of a drawing or drawings at a scale which accurately depicts all existing conditions and information required and accompanying materials prescribed by these regulations.
- (2) The Condominium Plat drawings shall be presented on a sheet or sheets twenty-four (24) inches wide by thirty-six (36) inches long within which are borders that are one inch and one-half (1 ½) inches on the left side and one-half (½) on the remaining sides. Where necessary, the Condominium Plat may be on more than one sheet provided that each sheet is numbered and the total number of sheets comprising the plat shall be stated on each sheet (for example Sheet 2 of 4). The face of the drawings shall contain the following information:
 - (i) The name of the Condominium at the top of the sheet. The name shall not be duplicate or too closely resemble the name of any condominium or subdivision previously developed in the City.
 - (ii) Date of preparation, scale, and north arrow. The top of each sheet shall represent north wherever possible.
 - (iii) A vicinity map drawn at a scale of 1"=1,000' or 1"=2,000', showing the location of the proposed condominium in the City.
 - (iv) A legal description of the property.
 - (v) A description of all monuments, both found and set, which mark the boundary of the property, and a description of all control monuments used in the survey.
 - (vi) Identification of all common areas.
 - (vii) Horizontal unit boundaries with bearings and distances.

- (viii) The location and dimensions of horizontal and vertical building sections, existing and proposed, in sufficient detail to legally describe air spaces.
- (ix) Units logically and consecutively numbered
- (x) The location and dimension of existing and proposed improvements, including decks, walkways and other accessory structures.
- (xi) Names of adjoining streets.
- (xii) The location and dimension of all easements of record.
- (xiii) A notarized certificate by all parties having any titled interest in or lien upon the land and improvements, consenting to the recording of the Plat. The certificate shall read:

Know all men by these present that the undersigned (Official name of the developer), being the owner, proprietor, or parties of interest in the land shown on this plat, do hereby certify:

That the forgoing plat designed as (name of condominium), is located in (Section, township, Range City, County, and State) and is more particularly described as follows:

(Insert full legal description)

That this condominium development, as it is described and as it appears on this plat, is made with the free consent and in accordance with the desires of the undersigned owner(s) and proprietor(s), and that this is a correct plat of the condominium development as is divided into common areas, units and easements.

Executed this _____ day of _____, A.D., 20____, by

(Designation of interest: owner, mortgagee, etc.)

STATE OF WYOMING)
)ss.
County of Lincoln)

The foregoing instrument was acknowledged before me by
_____, this _____ day of
_____20__.

Witness my hand and official seal.

Notary Public

My Commission Expires:

(xiv) Certificate of a registered land surveyor as follows:

I, _____ do hereby certify that I am a registered land surveyor, licensed under the laws of the State of Wyoming, that this plat is a true, correct, and complete plat of (Condominium Name) as laid out, platted, and shown hereon, that such plat was made from an accurate survey of said property and improvements by me and under my supervision and correctly shows the location and dimensions of the units, common areas, and easements of said condominium as the same are staked upon the ground in compliance with City of Kemmerer regulations governing the platting of condominiums.

Registered Land Surveyor

No. _____

(xv) Certificate of review of the City Engineer as follows:

Data on this plat reviewed this ____ day of _____, 20____, by the City Engineer of Kemmerer, Wyoming.

City Engineer

(xvi) Certificate of approval by the City of Kemmerer Zoning Board as follows:

This plat approved by the City of Kemmerer Zoning Board this ____ day of _____, 20 ____.

Chairman

Secretary

(xvii) Certificate of approval by the City Council of the City of Kemmerer as follows:

Approved by the City Council of the City of Kemmerer, Wyoming, this ____ day of _____, A.D., 20 ____.

Mayor

City Clerk

(xviii) Certificate for recording by the County Clerk and Recorder as follows:

This plat was filed for record in the Office of the Clerk and Recorder at ____ o'clock ____m., _____, 20 ____.

County Clerk

- (3) The following supporting materials shall be submitted with the Condominium Plat:
- (i) A completed Condominium Plat checklist on standard forms provided.
 - (ii) A completed Condominium Plat application on forms provided.
 - (iii) In the case of condominium conversions, the developer shall submit copies of letters to the tenants of the building notifying them of the proposed conversion.
 - (iv) The names and mailing addresses of all property owners within one-hundred (100) feet (excluding public right-of-ways) of the exterior boundaries of the condominium property.
 - (v) A draft of proposed private easement descriptions for utilities serving the condominium development.
 - (vi) A draft of the proposed condominium declaration shall be submitted for Board review and comment, but not for any formal approval.
- (4) The Condominium Plat and all required supporting materials must be submitted to the Zoning Department at least two (2) weeks prior to Zoning Board consideration. Within three (3) days, copies of the Plat will be transmitted to appropriate agencies and officials for their review and comment. At a minimum, copies of the Plat shall be referred to:
- (i) The City Engineer
 - (ii) The City Building Inspector
 - (iii) Any utility or special district
 - (iv) Hospital Board*
 - (v) Fire Department
 - (vi) The School District*
- *Referred to only in the case of new construction.
- (5) Agencies receiving referral copies of the Condominium Plat should return written

comments on the Plat to the Zoning Department within five (5) working days after receipt of the Plat.

- (6) Upon receipt of all agency comments, or at the end of the five (5) day period, the Zoning Department will summarize the agency comments, add written comments and recommendations from the Department itself, and present the material and recommendations to the Zoning Board for its consideration.
 - (7) At least seven (7) days prior to the date of the Zoning Board meeting at which the Plat is to be considered, the Zoning Department shall, from information provided by the developer as a part of his Condominium Plat submittal, notify property owners within one-hundred (100) feet (excluding public right-of-ways) of the exterior boundaries of the proposed condominium of the time, date and place of the meeting.
 - (8) The developer and all other interested or affected parties shall be allowed to offer comments on the Condominium Plat at the Zoning Board meeting. After due deliberation, the Zoning Board shall either approve or disapprove the Condominium Plat and so notify the developer in writing within ten (10) days after the date of the meeting at which final action was taken. The Zoning Board may attach conditions to its approval. If the Plat is disapproved, the Zoning Board shall specify conditions under which the Plat may gain approval.
 - (9) If the developer contends that conditions of approval attached by the Zoning Board are of such a nature as to make development of his land impractical, or if the developer contends that disapproval of his Condominium Plat by the Zoning Board was a wrongful decision, he may, in writing, request a hearing before the City Council and proceed according to the provisions of Section 5. b. of these regulations.
 - (10) Within a reasonable time after receiving the recommendations of the Zoning Board along with the Condominium Plat and accompanying materials, the City Council shall either approve the Plat or disapprove the Plat and notify the developer of the conditions to be met to gain approval.
 - (11) Upon approval by the City Council of the Condominium Plat the developer shall be notified to submit payment for the recording fee to the Zoning Department and the Department shall transmit the developer's recording fee and the duly-approved and executed Condominium Plat to the County Clerk and Recorder for the filing of the Condominium Plat among the official records of the County.
- (c) Corrected Plats

If, after approval and recording of a Condominium Plat, errors are found in the

language or numbers on the recorded Plat, the developer shall file a properly signed, corrected or revised original mylar or linen with the Department. The Plat shall be noted CORRECTED PLAT under the name of the condominium. Notations shall be made on the face of the Plat listing all corrections made and the book and page numbers where the original plat was recorded. The Department shall review the Plat for correction, secure the signatures of the proper public officials on the corrected plat and present the plat to the City Council for the reaffirmation of their approval and to the County Clerk for recording. The recording of the Corrected Plat shall void the incorrect original plat, and the County Clerk shall note VOID across the face of the incorrect plat.

SECTION 29-10. FEES.

- (a) Condominium Plat Review. Condominium Plat submittals shall be accompanied by a minimum fee of one hundred dollars (\$100.00), plus ten dollars (\$10.00) per unit for each unit in excess of ten (10) units up to a maximum fee of one thousand dollars (\$1,000.00). No additional fees will be charged for Minor Plats or Development Plans when filed concurrently with the Condominium Plat submittals. Fees are payable to the City of Kemmerer and are for the purpose of partially off-setting costs incurred by the City for necessary plat review.
- (b) Recording fee. As determined by the County Clerk. To be submitted to the Department after approval of the Condominium Plat and made payable to the Lincoln County Clerk.
- (c) Appeals. There shall be no fees for an appeal from the Zoning Board or from the administrative staff of the City with respect to these regulations.
- (d) Variances. Each request for a variance shall be accompanied by a fee of twenty five dollars (\$25.00), payable to the City of Kemmerer.
- (e) Correction Plat. Each correction plat submitted shall be accompanied by a fee of fifty dollars (\$50.00), payable to the City of Kemmerer.
- (f) Utility Plant Investment Fees. As calculated by the City Engineer.

SECTION 29-11. IMPROVEMENTS.

All condominium structures and condominium conversions must comply with the following regulations:

- (a) **International Building Code and International Property Maintenance Code.** All applicable provisions of the International Building Code for new condominium and multiple family construction shall be complied with. In the case of condominium conversions, the developer shall be required to comply with all applicable provisions of

the International Property Maintenance Code.

- (b) **Zoning Code.** A zoning permit shall be obtained from the Zoning Administrator prior to the construction of a condominium or prior to a condominium conversion. All applicable provisions of the zoning code shall be complied with in the case of new construction; however, only the off-street parking requirements of the zoning code shall be complied with in the case of condominium conversions.
- (c) **Utilities.** In providing utility services to a condominium development, the developer has the following options:
 - (1) If a single or separate utility service is provided to a multi-unit building, but individual units would be responsible for their own utility bills, then separate electric and water meters to each unit shall be installed as per the requirements of the Kemmerer/Diamondville Joint Powers Board.
 - (2) A single utility service and meter may be provided to a multi-unit building, if an association is formed and approved by the City Attorney and the person or party responsible for paying utility bills for an entire building is designated.
- (d) **Maintenance of Utilities.** Utility lines within a zone lot and serving only one zone lot shall not be maintained by the City.

ARTICLE IV. DEFINITION AND INTERPRETATION.

SECTION 29-12. DEFINITIONS.

The following words, terms and phrases are hereby defined and shall be interpreted in the same fashion throughout this Ordinance. The word “shall” is always mandatory. The word “may” is permissive. Words used in the present tense shall include the future tense and words used in the singular shall include the plural. Terms not herein defined shall have the meaning customarily assigned to them.

- (a) **BUILDING:** Any permanently affixed, covered structure intended for the shelter, housing, or enclosure of persons, animals or goods.
- (b) **BOARD:** The City of Kemmerer Zoning Board.
- (c) **CONDOMINIUM:** Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership by the owners of those portions. Real property is not a condominium if all of the common elements are owned by a legal entity separate from the unit owners, such as a corporation, even if the separate legal entity is owned by the unit owners.

- (d) **CONVERSION CONDOMINIUM:** Condominium projects not originally built and sold as condominiums but subsequently converted to condominium use.
- (e) **COUNCIL:** The City of Kemmerer City Council.
- (f) **COUNTY:** Lincoln County, Wyoming.
- (g) **DECLARATION:** A statement provided by the developer for a condominium development which includes, but is not limited to, the following elements: 1) the creation of a management association for the condominium and the rules governing its duties, powers and procedures, as well as provisions for changing, expanding or terminating the condominium; 2) any restrictions and limitations on the use and occupancy of the units and the common lands and facilities; 3) party-wall agreements; and 4) provisions governing the maintenance of the exterior portions of the units and the common elements.
- (h) **DEPARTMENT:** The City of Kemmerer Zoning Department.
- (i) **DEVELOPER:** The person or persons, partnership or limited partnership, corporation or other business association which owns a rental dwelling or building and proposes to convert the land and improvements to a condominium status, or proposes to construct a new condominium project.
- (j) **EASEMENT:** A designated area on a tract, block or lot of land which the owner has set aside for the use of others, particularly, public utilities.
- (k) **ENGINEER:** A licensed professional engineer registered within the State of Wyoming.
- (l) **IMPROVEMENTS:** Man-installed physical features such as pavements, curbs, gutters, sidewalks, water mains, sanitary sewers, storm sewers, grading, street signs, structures, landscaping, and other items for the welfare of the property owners and the general public.
- (m) **OWNER:** Any person having a legal or equitable interest in land.
- (n) **PLAT:** A map or drawing on which the Developer's plan of the condominium proposal is presented and which he submits for approval.
- (o) **PROPRIETOR:** Any person having a legal or equitable interest in land.
- (p) **TOWNHOUSE:** A row house or other unit in a building containing two or more units in which generally no part of a living unit extends over or under another living unit. Townhouse units may consist of one or more stories.

- (q) **UNIT:** That portion of a condominium or townhouse building designated for separate ownership on a recorded plat.
- (r) **ZONE LOT:** A single parcel of contiguous land occupied or intended to be occupied by structures and uses as permitted by the Zoning Ordinance of the City of Kemmerer, Wyoming.