

§ 20.60

CONDOMINIUM AND OTHER COMMUNITY HOUSING CONVERSIONS**§ 20.60.010. Purpose. [Ord. No. 80-02, § 504; Ord. No. 04-09]**

These regulations are intended to insure that the proposed conversions of existing structures to condominiums or other types of community housing, are eligible for consideration provided they are consistent with the following objectives:

- A. To reduce the impact of such conversions on residents in the rental housing, especially elderly and handicapped tenants, who may be required to relocate due to the conversion of rental housing to community housing, by providing for procedures for notification and adequate time for such relocation;
- B. To assure that prospective purchasers of converted community housing have been properly informed as to the physical condition of the structure and common equipment which is offered for purchase;
- C. To assure the conformity of the physical condition of the building to the Housing Code requirements for all multifamily residential structures in the City and with the Building Code of the City in effect at the time the converted building was constructed;
- D. To insure a reasonable balance in the owner versus rental housing mix and to maintain the supply of low to moderate income units available in the City for both owners and renters;
- E. To promote the concept of home ownership and to bring a greater amount of owner-occupied housing on the market affordable by all economic segments of the community, thus encouraging participation in the various economic and social benefits associated with home ownership.

§ 20.60.020. Applicability. [Ord. No. 80-02, § 504.1; Ord. No. 04-09]

The provisions of this section shall apply to the conversion of an existing structure or structures to community housing. Community housing shall include the following types of residential subdivisions:

- A. Any condominium project containing two (2) or more condominium units;
- B. Any community apartment project containing two (2) or more apartments;
- C. Any stock cooperative having or intended to have two (2) or more shareholders.

The term "condominium," as used in this section is intended to include all three (3) types of community housing.

§ 20.60.030. Items to Accompany Tentative Map. [Ord. No. 80-02, § 504.2; Ord. No. 90-07, § I; Ord. No. 04-09]

In addition to the requirements of the State Subdivision Map Act, and any City ordinance

enacted pursuant thereto, an application for the conversion of an existing structure to community housing shall require the submittal of the following data, which must be submitted at the same time the tentative subdivision map or tentative parcel map is submitted:

- A. Property Report and Warranty. A property report describing the condition and estimating the probable remaining useful life of each of the following elements of each structure situated within the project proposed for conversion: foundations, exterior walls, fire walls, roof, stairways and exits, interior insulation (sound and thermal), exterior insulation (sound and thermal), light and ventilation, plumbing, electrical, heating and air conditioning, fire and earthquake safety provisions, security provisions, interior common or public areas, landscaping, trash control, off-street parking. Such report shall be prepared by an appropriately licensed civil engineer or an architect registered in California, and shall contain recommendations for the correction or improvement of any deficiencies noted. An estimate of future property maintenance costs shall also be provided.
- B. The developer shall inform the buyer of the age of all equipment in private ownership including, but not necessarily limited to, dishwashers, garbage disposals, stoves, water heaters, refrigerators and heating, ventilating and air conditioning appliances that are provided.
- C. At such time as the Homeowners' Association takes over the management of the development, the developer shall provide a one (1) year warranty to the Association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the Association, is in operable working condition.
- D. Acoustical Report. Indicating:
 - 1. The type of construction between dwelling units and the general sound attenuation characteristics of such construction, or indicating the level of sound attenuation between dwelling units, and
 - 2. The feasibility of various levels of improvement, prepared by a licensed acoustical engineer.

This report may be waived for four (4) or fewer units upon the discretion of the Building Official.
- E. Utility Metering Reports. If the units of the building are not individually metered, a report indicating the feasibility of individual or submetering, prepared by qualified engineers.
- F. Geological Conditions Report. A report on any known soil and geological conditions regarding soil deposits, rock formations, faults, groundwater and landslides in the vicinity of the project, and a statement regarding any known evidence of soils problems relating to the structures. Reference shall be made to any previous soils reports for the site, and a copy submitted with the report.

- G. Pest Control Report. A structural pest control report prepared by a licensed structural pest control operator (pursuant to Section 8516 of the Business and Professional Code).
- H. Demographic and Rental Structure Report. Specific information concerning the demographic characteristics of the project including, but not limited to, the following:
 - 1. Square footage and number of rooms in each unit;
 - 2. Rental rate history for each type of unit for previous five (5) years;
 - 3. Monthly vacancy rate for each month during preceding two (2) years;
 - 4. Makeup of existing tenant household, including family size, length of residence, age of tenants and whether receiving Federal or State rent subsidies;
 - 5. Proposed sale price of units;
 - 6. Proposed Homeowners' Association fee and what services the fee covers;
 - 7. Financing available, and
 - 8. Names and addresses of all tenants.

When the subdivider can demonstrate that such information is not available, this requirement may be modified.

- I. Relocation Assistance Report. A written description of all relocation and moving assistance and information to be given to each tenant, and all the steps the subdivider will take to insure the successful relocation of each tenant, in the event that conversion takes place. The report, to be given to all tenants, should pay particular attention to what assistance will be provided to the elderly, handicapped and other tenants who may encounter difficulty finding new quarters. In order to reduce the number of such tenants being displaced, subdivider shall consider incentives and inducements that would permit tenants to become owners in the condominium. Subdivider shall also consider procedures that would allow such hard-to-relocate tenants to stay on as tenants, or to give such tenants additional time after termination of tenancy, due to the conversion, for permanent relocation.
- J. Statement of Improvements To Be Made. A statement of repairs and improvements to be made by the subdivider, necessary to refurbish and restore the project to achieve a high degree of appearance and safety.
- K. Proposed Organization and Items To Be Included in Covenants, Conditions and Restrictions. A written description regarding the proposed project organization including the use and control of the common elements and recreation facilities within the project. The statement shall detail any proposed control of common facilities to be retained by the developer, or by the owner or maintained by a Homeowners' Association of unit owners, or any other organization.

The applicant shall also indicate, in writing, that the following items will be included in the Covenants, Conditions and Restrictions:

1. The CC&R's shall state that no building permit shall be issued by the City without prior approval of the Homeowner's Association.
2. A maintenance plan which clearly specifies methods and standards for performance of common responsibilities and maintenance for all common areas, including any common refuse collection responsibilities or assurances that the premises will be kept free from trash and debris, and the equipment and fees to be assessed for such purposes. The maintenance plan shall include a sinking fund for major repairs and extraordinary expenses.
3. A provision that an individual owner cannot avoid liability for his prorated share of the expenses for the common area by renouncing his rights in the common area.

§ 20.60.040. Items to Accompany Final Map. [Ord. No. 80-02, § 504.3; Ord. No. 04-09]

In addition to the requirements of the State Subdivision Map Act, and any City ordinance which may be enacted pursuant thereto, the following data shall be submitted at the same time the final subdivision map or parcel map is submitted for an application for the conversion of an existing structure to community housing:

- A. Organization Documents. A copy of the covenants, conditions and restrictions, including those items listed in subsection 20.60.030, paragraph g, and any other items which may be required by the Planning Commission.
- B. Report to Prospective Buyers. This report shall consist of the final version of the property and structural reports required in subsection 20.060.030.
- C. Public Report Application. A full and complete copy of all information submitted to the City must be submitted to the California Department of Real Estate.

§ 20.60.050. Requirements for Approval, Physical. [Ord. No. 80-02, § 504.4; Ord. No. 04-09]

Approval of tentative and final subdivision maps, or of tentative parcel and parcel maps, shall be conditional upon the following requirements:

- A. Compliance with Applicable Codes and Additional Standards. The project shall conform to the applicable standards of the City's Housing Code, and shall be found to be in compliance with the City Building Code in effect on the date that the building was constructed. Additionally, the project shall conform with the following standards:
 1. Utilities. The consumption of gas and electricity within each dwelling unit shall be separately metered so that the unit owner can be separately billed for each utility. Each unit shall have its own panel board for all electrical circuits

which serve the unit. A water shut-off valve shall be provided for each unit. The requirements of this subsection may be waived where the Building Official finds that such would not be practicable.

2. Fire Prevention.

- a. Smoke Detectors. Each living unit shall be provided with approved detectors of products of combustion other than heat, conforming to the latest UBC standards, mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes.
- b. Maintenance of Fire Protection Systems. All fire hydrants, fire alarm systems, portable fire extinguishers and other fire protective appliances shall be retained in an operable condition at all times.

3. Exits. The structure's exits, exit ways and appurtenances shall conform to the standards set forth in Chapter 8 of the current City Housing Code, and Chapter 33 of the City Building Code.

4. Sound Transmission.

- a. Shock Mounting of Mechanical Equipment. All permanent mechanical equipment, such as motors, compressors, pumps and compactors, which is determined by the Building Official to be a source of structural vibration or structure-borne noise shall be shock mounted with inertia blocks or bases and/or vibration isolators in a manner approved by the Building Official.
- b. Noise Standards. The structure shall conform to all interior and exterior sound transmission standards of Chapter 35 (Appendix) of the Uniform Building Code. In such cases where present standards cannot reasonably be met, the applicant shall notify potential buyers of the noise deficiency currently existing within these units.

5. Private Storage Space. Each unit shall have at least two hundred (200) cubic feet of enclosed weather-proofed and lockable private storage space in addition to guest: linen, pantry and clothes closets customarily provided. Such space shall be for the sole use of the unit owner. Such space may be provided in any location approved by the Building Official, but shall not be divided into two (2) or more locations. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the Building Official.

6. Landscape Maintenance. All landscaping shall be restored as necessary and maintained to achieve a high degree of appearance and quality.

7. Usable Open Space. A multifamily dwelling which does not provide reasonable private and common outdoor usable open space may be considered to be ineligible for conversion.

- B. **Inspection and Performance.** The City Building Inspector shall inspect the building to review the accuracy of the property report required by subsection 20.60.030A, and to determine compliance with this subsection. Any required structural repair work shall be completed, or funds for the completion of the work shall be either escrowed or bonded to the satisfaction of the Building Official, to assure completion of the work prior to the closing of escrow for the sale of any unit in the project.

Any physical elements of the project found to impose a hazard to the health and safety of the occupants of the project shall be corrected prior to the approval of the Final or Parcel Map, or funds shall be adequately escrowed or bonded, to the satisfaction of the Building Official, to assure completion of such corrective work, prior to the closing of escrow of any unit in the project.

§ 20.60.060. Requirements for Approval, Non-Physical. [Ord. No. 80-02, § 504.5; Ord. No. 04-09]

- A. **General Plan Conformity.** The Planning Commission shall not approve a tentative map or preliminary parcel map for a condominium conversion project if it finds that any applicable General Plan or Specific Plan provision contains a definite statement of policies and objectives explicitly applicable to condominium conversion projects, and the proposed map is not substantially consistent with such provision.
- B. **Impact on Senior Citizen, Disabled and Low/Moderate Income Tenants.** The Planning Commission shall not approve an application for condominium conversion unless the Planning Commission finds that:
1. The proposed conversion will not displace a significant percentage of low and moderate income¹, senior citizen² or disabled³ tenants, and will not delete a significant number of low and moderate income rental units⁴ from the City's housing stock at a time when no equivalent housing is readily available in the Albany area.
- C. **Annual Limitation.** The total number of rental units eligible for conversion to condominiums each year shall not exceed three (3%) percent of the City's total multi-family rental housing stock as of January 1 of that year. Multifamily housing under the jurisdiction of nonprofit motivated organizations shall not be included in the determination of the quantity of rental housing stock.

§ 20.60.070. Application Review and Evaluation. [Ord. No. 80-02, § 504.5; Ord. No. 04-09]

- A. **Review Procedure.** Applications for proposed condominium conversions shall be

-
1. **Editor's Note:** As defined by standard definitions used by the Federal and State Governments; generally, persons with incomes less than eighty (80%) percent of the median income level for the region.
 2. **Editor's Note:** Age sixty-two (62) or older.
 3. **Editor's Note:** As defined in Section 50072 of the California Health and Safety Code, or Section 223 of the U.S. Social Security Act.
 4. **Editor's Note:** Units which are rented at or below the Section 8 Fair Market Rent Level.

accepted twice annually: the last Friday in April and the last Friday in October. The Planning Commission shall meet to consider the applications no later than sixty (60) days from the dates of application. The total number of rental units approved for conversion to condominiums in the first annual consideration shall not exceed sixty (60%) percent of the total annual allotment, and the number of units approved for conversion in the second annual consideration, when added to the number of units approved for conversion in the first annual consideration shall not exceed one hundred (100%) percent of the total annual allotment. Allocations for conversions shall not be cumulative from year to year. Single structures containing a number of units in excess of the prescribed allotments for either of the two (2) annual considerations, may be approved on a variance basis (see subsection 20.100.040).

- B. Approval Evaluation Factors. In reviewing applications for conversions, and in selecting from applications for conversion proposals, the Planning Commission shall include the consideration of the following:
1. Effect of Proposed Conversion on the City's Rental Supply, Especially Low and Moderate Income Units. Along with other factors, the City will consider the following:
 - a. The number of families on current waiting lists for assisted rental housing programs that operate in Albany, not including nonprofit motivated projects.
 - b. The probable income range of tenants living in existing apartments based on the assumption that households should pay between one-fourth (1/4) and one-third (1/3) of their income for housing. That income range will be compared with existing income limits for the Section 8 Program to determine whether potential displaced tenants can be categorized as low and moderate income.
 - c. The need and demand for lower cost home ownership opportunities which are increased by the conversion of apartments to condominiums.
 - d. If the Planning Commission determines that vacancies in the project have been increased for the purpose of preparing the project for conversion, the tentative map may be disapproved. In evaluation of the current vacancy level under this subsection, the increase in rental rates for each unit over the preceding five (5) years and the average monthly vacancy rate for the project over the preceding two (2) years shall be considered.
 2. Relocation Assistance. As outlined in the report required by subsection 20.60.030I.
 3. Building Condition. As described in the report in subsection 20.60.030A and as verified by the Building Official. The Planning Commission shall also evaluate and take into consideration the proposed substantial improvements of both private and common areas.

§ 20.60.080. Provision for Tenants. [Ord. No. 80-02, § 504.6; Ord. No. 04-09]

- A. The City shall notify, in writing, each present tenant of the time and place of the meeting date when tentative parcel or subdivision map is to be discussed by the Planning Commission at least ten (10) days prior to such meeting.
- B. Within five (5) days of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, the subdivider shall notify all tenants, in writing, of the date of issuance of the report. The Notice of Intention to Convert shall also state the following:

- 1. Remodeling of Units. That no remodeling of the interior of tenant-occupied units shall begin until after the tenant has moved or agreed to purchase.
- 2. Tenant Right to Purchase. That each tenant has an exclusive right to contract for the purchase of the dwelling unit occupied by the tenant or other unit in the development upon the same or more favorable terms and conditions than those on which such unit will be initially offered to the general public. The right shall run for a period of not less than sixty (60) days from the date of issuance of the said report, unless the applicant receives prior written notice of the tenant's intention not to exercise the right. The tenant's right to purchase shall be nontransferable.
- 3. Vacation of Units. That each tenant (subject to the terms of his/her lease/rent agreement) has a right of occupancy of at least one hundred twenty (120) days after being given written notice of intention to convert, or until the expiration of tenant's lease, whichever is longer, prior to termination of tenancy due to condominium conversion.

Any tenant who is over the age of sixty-two (62), or who occupies a low to moderate cost housing dwelling unit, or who is handicapped or disabled as defined herein shall be allowed to remain as a tenant for an additional month for each year in residence, in addition to the above one hundred twenty (120) day period. In any case, such tenant shall have a right to occupancy for at least one hundred eighty (180) days following the written Notice of Intention to Convert.

- 4. No Increase in Rents. That a tenant's rent shall not be increased for one (1) year from the time of the filing of the tentative map.
- 5. Moving Expenses. That the subdivider shall provide moving expenses to any tenant who relocated from the building to be converted after receipt of notification from the subdivider of his intent to convert, except when the tenant has given notice of his intent to move prior to receipt of notification from the subdivider of his intent to convert. The amount of moving expenses shall be as follows:
 - a. For tenants over the age of sixty-two (62) who have lived in their unit for at least two (2) years, an amount not to exceed three (3) times the monthly rent.

- b. For all other tenants, an amount not to exceed one and one-half (1-1/2) times the monthly rent.
- C. Termination of Lease by Tenant. The subdivider shall, where possible, permit a tenant to terminate any lease or rental agreement without forfeiture of rent for the remaining portion of the lease period after notice has been given of the intention to convert to community housing, if such tenant notified the developer in writing thirty (30) days in advance of such termination.
- D. Notice to New Tenants. After submittal of the tentative map, any prospective tenants shall be notified in writing of the intent to convert prior to leasing or renting any unit.
- E. Special Consideration. Developer shall submit proposals for giving special consideration to tenants over seventy-two (72) years of age or disabled persons, who have been tenants for eight (8) years or more, and whose income is not above the low-moderate income level. The proposals shall be considered by the Planning Commission to assure optimum consideration for substantial property rights involved, as well as for the health, safety, convenience and general welfare of the tenants. The proposals could include, but are not limited to, the following:
 - 1. The same options open to all tenants, or
 - 2. Developer to satisfy requirements for adequate relocation: extra costs of moving and furnishing new quarters; new quarters must be substantially comparable in all important respects, i.e., location, rent, amenities, or
 - 3. Developer to arrange satisfactory terms for purchase into the condominium, i.e., long-term contract, low interest, and mortgage payments within ability to pay (not to exceed twenty-five (25%) percent above the rent being paid at the time of conversion) or
 - 4. A lifetime lease with the initial rent not to exceed one hundred twenty five (125%) percent of the current rental, with the stipulation that the rent may be increased annually, but not to exceed the housing component of the Consumer Price Index, or
 - 5. Other agreeable proposal.