

Chapter 26.65 CONVERSIONS TO CONDOMINIUMS, STOCK COOPERATIVES AND COMMUNITY APARTMENTS

26.65.010 PURPOSE.

The conversion of residential, commercial and industrial structures from single person or entity ownership to condominiums, stock cooperatives, or community apartments with multiple ownership interests creates special community problems, both social and economic. Given the relative lack of rental construction over the past eight years, conversions may significantly affect the balance between rental and ownership housing within the City (which may affect future economic growth); reduce the variety of individual choices of tenure, type, price, and, location of housing; increase overall rents; decrease the supply of rental housing for low and moderate income persons and families; and disregard the needs of the prevailing consumer market. The purpose of this chapter is to provide guidelines to evaluate those problems, the impact any conversion application may have on the community and to establish requirements which shall be included in any conversion approval. (Ord. 1983-12 § 1, 1983; Ord. 1981-33 § 1, 1981; Ord. 1979-22 § 3, 1979).

26.65.020 SUBDIVISION MAP PROCEDURES.

(a) The requirements established in this title for subdivision map review, rather than those for parcel maps, shall be applied to applications for conversions to condominium units, and shall be in addition to those required by applicable State law.

(b) This title shall not apply to the following:

(1) Unless a parcel or final map was approved by the City, the conversion of a community apartment project to a condominium if all of the following requirements are met:

(A) At least seventy-five (75) percent of the units in the project were occupied by record owners of the project on March 31, 1982;

(B) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in [Government Code](#) section 66424, after January 1, 1964, with all of the conditions of that map in effect after the conversion; and

(C) The City engineer certifies that the above requirements are satisfied.

(2) Unless a parcel or final map was approved by the City, the conversion of a stock cooperative to a condominium if all of the following requirements are met:

(A) At least fifty-one (51) percent of the units in the cooperative were occupied or individually owned by stockholders of the cooperative on January 1, 1980. As used in this subsection, a cooperative unit is "individually owned" if and only if the unit is owned by stockholders who hold an interest in only that one unit in the cooperative;

(B) No more than twenty-five (25) percent of the shares of the cooperative were owned by any one person, including an incorporator or director of the cooperative, on January 1, 1980; and

(C) The City engineer certifies that the above requirements are satisfied. (Ord. 1985-24 § 32, 1985; Ord. 1983-12 § 1, 1983; Ord. 1983-3 § 9, 1983; Ord. 1979-22 § 4, 1979; Ord. 1975-8 § 1, 1975).

26.65.025 NOTICE.

(a) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project shall receive written notification by registered mail from the subdivider of the intention to convert at least ninety (90) days prior to the filing of a tentative map application. This notification shall include the information provided by the department of community development regarding relocation, right to purchase, and lease benefits available under section [26.65.060](#).

(b) Each tenant, and each person applying for the rental of a unit in the residential real property concerned shall be given all applicable notices and rights as required by this code and State law.

(c) Each tenant shall be given written notification by the subdivider no less than ten (10) days after submittal that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that the report will be available from the subdivider on request.

(d) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project will be given written notification by the City at the subdivider's expense of approval of the final map for the proposed conversion within ten (10) days of approval.

(e) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project shall be given written notice of intention to convert by the subdivider at least one hundred and eighty (180) days prior to termination of tenancy due to the conversion or proposed conversion. This requirement shall be deemed to be met as to those tenants who receive the initial intention to convert notice by that notice.

(f) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project shall be given notice by the subdivider of an exclusive right to contract for the purchase of his or her respective unit upon terms and conditions more favorable to the tenant than offered to the general public. This right shall run for a period of not less than ninety (90) days from the date of issuance of the subdivision public report pursuant to the [Business and Professions Code](#), unless the tenant gives prior written notice of his or her intention not to exercise this right.

(g) Any written notice required by this chapter, except for the notice of intention to convert, shall be considered satisfied if the notice complies with the State requirements for service by mail.

(h) The subdivider shall use the notification forms provided for in the Subdivision Map Act, as applicable.

(i) The provisions of this chapter are in addition to and shall not be construed to alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or obligations imposed by the [Civil Code](#). (Ord. 1985-24 § 33, 1985; Ord. 1981-33 § 2, 1981).

[26.65.030 DEFINITIONS.](#)

When used in this chapter, the following meanings shall apply:

(1) "Affordable housing" means housing that has a purchase price or a rental rate that is within the income levels for households earning less than or equal to one hundred twenty percent of median income for the San Francisco-Oakland Standard Metropolitan Statistical Area (SMSA) and that meet minimum size standards on a per person basis.

(2) "Apartment" means a room or suite of rooms in a multiple family structure, which is arranged, designed or used as a single housekeeping unit and which includes cooking facilities.

(3) "Applicant" means an authorized party responsible for filing a complete application and representing the project during review by the City.

(4) "Association" means an organization composed of persons who own a condominium unit(s) or right of exclusive occupancy in a community apartment, and who are organized to operate and maintain common areas for condominiums.

(5) "Common areas" means an entire project excepting all units therein granted or reserved.

(6) "Community apartment project" means a development of real property in which an undivided interest in

the land is coupled with the right of exclusive occupancy of a designated residential unit located thereon. For the purposes of this section, community apartment project means the same thing and shall be treated in the same way as a residential condominium, as defined herein,

(7) “Condominium” means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial or commercial building on such real property.

(8) “Conversion” means a proposed change in the ownership interest of a parcel or parcels of land, together with the existing or added structures, some of which were previously occupied, from that established to the type of ownership interest defined as community apartments, stock cooperative or condominiums.

(9) “Covenants, conditions and restrictions (CC&R’s)” means a written declaration relating to the maintenance, operation, duties, and responsibilities of the common owners of the project and may include, but is not limited to, those restrictions provided for in Section 1355 of the California [Civil Code](#) and as such may hereafter be amended.

(10) “Developer” means the owner or subdivider of real property with a controlling proprietary interest in the project.

(11) “Eligible tenant” means a tenant who was a tenant at the time the notice of intention to convert was mailed pursuant to section [26.65.025\(a\)](#) or to whom the subdivider did not provide a notice concerning the proposed conversion required by this chapter or State law.

(12) “Handicapped” means a person who is handicapped with one of the following disabilities: an orthopedic disability impairing ability to obtain employment, a physical disability requiring special care facilities in the home, or a developmental disability or mental disorder rendering him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency.

(13) “Housing market area” means the area within the county of San Mateo.

(14) “Lower income” means a tenant or household that earns eighty percent or below the county or SMSA median income, whichever produces the higher figure.

(15) “Moderate income” means a tenant or household that earns more than eighty percent, but not more than one hundred twenty percent of the county or SMSA median income, whichever produces the higher figure.

(16) “Multiple family residential project” means a rental housing development consisting of three or more dwelling units attached to or within one structure.

(17) “Organizational documents” means the declaration of restrictions, articles of incorporation, bylaws, and any contracts for the maintenance, management or operation of all or any part of the community housing project.

(18) “Project” means the entire parcel of real property divided or to be divided into condominiums, including all structures thereon.

(19) “Stock cooperative” means a corporation which is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock or membership certificate in the corporation held by the person having such right of occupancy.

(20) “Subdivision Map Act” refers to the subdivision law of the state commencing with Section 66410 of California [Government Code](#), or its successor.

(21) “Subdivider” means a person, firm, corporation, partnership or association who proposes to divide, divides, or causes to be divided real property into a subdivision for himself or for others except that employees and consultants of such persons or entities, acting in such capacity, are not “subdividers.”

(22) “Subdivision ordinance” means Title 26 of this code.

(23) “Tenant” means the person(s) entitled to immediate possession of the unit pursuant to a rental agreement, lease, or sublease. A person who sublets a unit to another and does not live in the unit himself, is not a tenant.

(24) “Unit” means the element of a community apartment, stock cooperative or a condominium which is to be exclusively owned or occupied individually and not in common with the owners of other elements of the project.

(25) “Very low income” means a tenant or household that earns fifty percent or below of the county or SMSA median income, whichever produces the higher figure. (Ord. 1985-24 §§ 34, 35, 1985; Ord. 1981-33 § 3, 1981; Ord. 1979-22 § 5, 1979; Ord. 1975-8 § 1, 1975).

26.65.040 APPLICATION FOR CONVERSION—PRIOR NOTICE.

(a) No person shall convert a structure to community apartments, stock cooperatives or condominiums within this city without an approved application therefor which has met all the requirements of this chapter.

(b) In addition to satisfying other requirements of this title, the applicant for a conversion, at the time application is made, shall provide the following information:

(1) A building and zoning history, to the extent available, detailing the date of construction, major uses since construction and the dates, nature and scope of major repairs and alterations since construction;

(2) A property report detailing the condition and useful life of the roof, foundation, mechanical, electrical, plumbing, and structural elements of all existing buildings and structures prepared by a certified engineer or architect. It may include reports by licensed contractors for special areas of construction if the reporting contractor is licensed by the State as a contractor in the specific area. The report shall also include the following:

(A) A structural pest report, prepared by a licensed structural pest control operator, of an inspection made within thirty (30) days before the filing of the application; and

(B) A report identifying all items not consistent with the City’s existing zoning, building, fire, and housing codes, and [California Administrative Code](#) regulations for existing buildings;

A copy of the property report shall be furnished to each prospective purchaser by the subdivider prior to sale of the unit;

(3) A statement of the number of units, size of units, parking spaces per unit, number of tenants, including number of tenants sixty-two years of age and older;

(4) A statement certifying that all tenants have been notified in writing of the intent to apply for conversion at least ninety days prior to its actual filing. Prospective tenants also shall be notified of the application for conversion prior to rental. Copies of such notices shall be provided to city attached to the statement;

(5) A statement of the specific relocation assistance which the applicant shall provide existing tenants in the event they do not purchase their respective units;

(6) A statement of the repairs and improvements which will be done prior to sale of the units;

(7) A description of the amount of open space existing and the condition of the common areas, including landscaping, recreational features and facilities within the project area;

(8) A copy of the notice of intention to sell or lease and a copy of the completed questionnaire, as filed with the California Department of Real Estate under the provisions of [Business and Professions Code](#) Section 11010, et seq. (Ord. 1985-24 §§ 35, 37, 1985; Ord. 1981-33 § 4, 1981; Ord. 1979-22 § 6, 1979; Ord. 1975-8 § 1, 1975).

26.65.050 REVIEW CONSIDERATIONS.

When evaluating whether a conversion should be approved with the required conditions or denied, each reviewing

body shall consider its consistency with the public health, safety and welfare and with the City's general and specific plans. In making such determination, each reviewing body shall consider such factors as may adversely affect the public health, safety or welfare of the community. (Ord. 1979-22 § 7, 1979; Ord. 1975-8 § 1, 1975).

26.65.060 CONDITIONS.

Approval of a proposed subdivision map for a conversion under this chapter shall be conditioned to secure the purposes of this title. Such conditions shall include, but are not limited to the following:

- (1) Each tenant shall have the first right to purchase his or her unit for a period of three (3) months after receipt of city approval of the final map and a copy of the condominium final subdivision public report of the California Department of Real Estate.
 - (A) Any eligible tenant who is a tenant on the date of the approval of the tentative map and who does not exercise his or her right to purchase or relocate shall be entitled to a one-year lease upon approval of the final map for the project; the one-year is measured from the date of the tentative map approval.
 - (B) Any eligible tenant who, on the date of the filing of the tentative map application, is sixty-two (62) years of age or older or is handicapped shall be entitled to a lease of his or her unit for so long as the tenant lives and remains a tenant of the unit. The rental rate for all tenants shall be that in effect at the time the application for a tentative map is filed, subject to an increase no more often than every twelve (12) months of not more than the annual cost of living increase published for the Housing and Urban Development's (HUD) Section 8 rental increase averages for the San Francisco Bay Midpeninsula. This restriction on rate increases shall be for the period from twelve (12) months before the filing of the tentative map application through the end of occupancy for an eligible tenant and until the unit is sold for all other tenants.
- (2) Relocation assistance shall be given to all eligible tenants as follows:
 - (A) A relocation allowance equal to three month's rent at the tenant's rate in effect at the time the application is filed shall be paid to the eligible tenant within twenty (20) days after the tenant notifies the owner of his or her intention to vacate the unit or the owner notifies the tenant to vacate the unit.
 - (B) The developer shall provide a list of active comparable rental units in San Mateo County at least once each month beginning in the month that the tentative map is approved by the City and continuing until six (6) months after approval of the final map or the expiration of the tentative map, whichever is later; and
 - (C) In conversion projects of twenty-five (25) or more dwelling units, the developer shall provide a relocation specialist to assist displaced tenants in finding new housing who shall be on-site at least biweekly, beginning no later than fifteen (15) days after the approval of the tentative map by the City and continuing until the expiration of the tentative map or six (6) months after the approval of the final map, whichever occurs first.
- (3) Hazardous and unsafe conditions shall be alleviated and repaired prior to final map approval, even though the condition may have complied with city codes in effect at the time of original construction. Other code requirements, as well as conditions of the conversion approval, not deemed hazardous or unsafe, if not complete at the time final map approval is sought, shall require that a bond in the form and amount acceptable to city be posted to ensure such completion prior to approval for occupancy or within one year of the approval of the final map, whichever is sooner. Such bonding shall not be released until all conditions of approval have been met and accepted by city as satisfactory.
- (4) An inspection of the premises to ascertain that structures are consistent with the public health and safety shall be completed at applicant's expense by the City or city's designee prior to final map approval. Approval for occupancy shall not be granted until all other conditions of approval have been met and accepted by city as satisfactory.

(5) The structural elements of the conversion project shall meet, at a minimum, the [Uniform Building Code](#) in effect in the City on the date of the building permit application for the conversion. Calculations by a structural or civil engineer or architect shall be required. The project shall also meet sound control and energy conservation requirements as follows:

(A) Sound control between units and between units and public areas shall provide an airborne sound insulation equal to that required to meet a Sound Transmission Class (STC) of forty-three by field testing. Impact Insulation Class (IIC) of forty-three by field testing is required. Entrance doors and perimeter seals shall meet a rating of not less than twenty-six STC. To assure compliance with the above, all units must be field tested and certified by an approved testing agency.

(B) Energy conservation measures shall be included. Roof and ceiling assemblies shall meet the R-20 standard. Exterior openings shall be weather-stripped. If the glazing areas exceed the allowable areas of the state energy regulations by ten percent, modifications shall be made to bring the structure within the limits specified herein. The energy compliance alterations may be made in any manner provided in the state regulations. Calculations by a person authorized in the state regulations will be required. Exposed heating ducts and hot water piping and hot water tanks shall be insulated.

For the purpose of meeting all the requirements of this subsection (5), all walls, floors and other structural elements deemed suspect by the building official, shall be opened for inspection and necessary corrections shall be made to the structure prior to receiving approval for occupancy.

(6) Parking for each unit shall be the same as that required for new multiple residential structures specified per bedroom count in Chapter [27.64](#) of this code, except that, upon proper qualification, a variance therefrom may be granted under the provisions of Chapter [27.78](#) of this code. The parking for each unit shall be within an enclosed garage for at least one space, or, alternatively, a covered parking area with adequate security may be substituted.

(7) All public improvements which are necessary to comply with present city standards shall be required and completed prior to approval of the final map.

(8) The applicant shall post an irrevocable bond or warranty with the project's homeowners association assuring the operation and maintenance of all built-in appliances in each unit for a period of one year after conveyance of each unit. Any residential conversion project shall contain clothes washing and drying appliances at a minimum ratio of one of each such appliance per five units, or fraction thereof, in the project, to be located in a facility readily accessible to all occupants. A similar bond or warranty for the clothes appliances shall be posted with the association for a like period of operation and maintenance.

(9) The applicant shall furnish the department of community development with a copy of the Department of Real Estate's Conversion Final Subdivision Public Report when issued, as well as to all prospective purchasers. The applicant shall also notify all tenants of the structure to be converted of each public hearing scheduled on the application, in writing, and provide evidence of compliance therewith to the City prior to final tentative map approval.

(10) After tentative map approval is granted, but prior to a final map being approved, the applicant shall file a copy of the covenants, conditions and restrictions with the City Attorney's office. They shall be reviewed and approved by the City Attorney for compliance with the provisions of this code, conditions of approval or conflicts with local law prior to approval of the final map. The covenants, conditions and restrictions for residential conversions shall contain provisions prohibiting discrimination because of age, persons of low income, or families with children, unless the physical facilities are limited to elderly persons or unsuitable for children and persons of low income are unable to qualify for financial assistance to purchase a unit.

(11) The project shall meet all zoning ordinances in effect at the time the application is filed with respect to the number of units permitted. (Ord. 1985-24 §§ 38, 39, 40, 41, 1985; Ord. 1981-33 § 5, 1981; Ord. 1979-22 § 8, 1979; Ord. 1975-8 § 1, 1975).

26.65.070 APPEAL.

The applicant or any citizen or taxpayer may appeal the decision of the Planning Commission to the City Council on any conversion project. The procedures for appeal set forth in Section 26.72.030 shall be applicable. (Ord. 1979-22 § 9, 1979; Ord. 1975-8 § 1, 1975).