

Chapter 19.45: Condominium Conversions

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19.45.010 Purpose

The purpose of this chapter is to establish criteria for the conversion of existing multiple family rental housing to condominiums and to reduce the impact of such conversions on residents in rental housing who may be required to relocate due to the conversion.

19.45.020 Applicability

The regulations set forth in this chapter shall apply to the conversion of existing multiple family rental housing to condominiums. This chapter shall not apply to a “limited-equity housing cooperative” as defined in Section 11003.4 of the California Business and Professional Code.

19.45.030 Application and Fees

A condominium conversion project shall require the approval of a use permit, parcel maps or tentative and final maps pursuant to Chapter 19.34 and Title 18 of the El Cerrito Municipal Code, together with a filing fee in accordance with the current fee schedule established by the City. In addition to required use permit and map submittals, the developer shall submit the following:

- A. **Physical Elements Report.** A report prepared by a registered engineer or architect or licensed qualified contractor describing the physical elements of all structures and facilities shall be submitted with the tentative map or parcel map. The report shall include, but not be limited to, the following:
 1. *Structural Condition of Elements.* A report detailing the structural condition of all elements of the property including foundations, electrical, plumbing, utilities, walls, roofs, ceilings, windows, recreational facilities, sound transmission of each building, mechanical equipment, parking facilities and appliances. The report shall state, to the best knowledge or estimate of the applicant, when such element was built; the condition of each element; when said element was replaced; the approximate date upon which said element will require replacement; the cost of replacing said element; and any variation

of the physical condition of said element from the current zoning and from the City Housing Code and City Building Code in effect on the date that the last building permit was issued for the subject structure. The report shall identify any defective or unsafe elements and set forth the proposed corrective measures to be employed.

2. *Pest Control.* A report from a licensed structural pest control operator, approved by the City, on each structure and each unit within the structure.
 3. *Soil Conditions.* A report on 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 said report.
 4. *Repairs and Improvements.* A statement of repairs and improvements to be made by the applicant necessary to refurbish and restore the project to achieve a high degree of appearance and safety.
- B. **Covenants, Conditions and Restrictions (CC&Rs).** A declaration of CC&Rs which would be applied on behalf of any and all owners of condominium units within the project. The declaration shall include, but not be limited to: the conveyance of units including private open space and private storage areas; the assignment of parking; an agreement for common area maintenance, including facilities and landscaping, together with an estimate of any initial assessment fees anticipated for such maintenance; description of a provision for maintenance of all vehicular access areas within the project; an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit; utility easements over private streets and other areas; a plan for equitable sharing of communal water metering. The developer shall also file a petition by a majority of the owners, requesting that the provisions of the California Vehicle Code be enforced on privately owned and maintained roads as provided in Section 21107.7 of the California Vehicle Code.
- C. **Plot Plan.** A plot plan of project showing: location and size of structures, parking layout, pedestrian access, sewer and storm drain locations.
- D. **Characteristics.** 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. Proposed sale price of units.
 3. Names and addresses of all tenants.
- E. **Notice of Intent to Convert.** Signed copies from each tenant of Notice of Intent to Convert, as specified in Section 19.45.070. The applicant shall submit evidence that a letter of notification to convert was sent to each tenant 60 days prior to the filing of a

tentative map. If a signed copy of the notification from a tenant is not received by the applicant, this requirement shall be deemed satisfied if such notices comply with the legal requirements for service by mail specified in Code of Civil Procedure Section 1013.

- F. **Department of Real Estate Application.** A copy of the project application submitted to the State of California’s Department of Real Estate for a subdivision public report; and
- G. **Additional Information.** Any other information which, in the opinion of the Community Development Director, will assist in determining whether the proposed project will be consistent with the purposes of this chapter.

19.45.040 Filing and Processing.

- A. **Acceptance of Reports.** The final form of the Physical Elements Report and other documents shall be as approved by the City. The reports in their acceptable form shall remain on file with the Community Development Department for review by any interested persons. The report shall be referenced in the subdivision report to the Planning Commission.
- B. **Submittal of Budget.** Prior to final map approval, the applicant shall provide the City with a copy of the proposed budget for maintenance and operation of common facilities including needed reserves. The budget shall show estimated monthly costs to the owner of each unit, projected over a five year period, or such time as is required by the Department of Real Estate. Such budget shall be prepared or reviewed and analyzed by a professional management firm, experienced with management of condominium complexes. The management firm shall submit a statement of professional qualifications.
- C. **Copy to Buyers.** The applicant shall provide each purchaser with a copy of all submittals (in their final, acceptable form) required by Section 19.45.030 prior to said purchaser executing any purchase agreement or other contract to purchase a unit in the project, and said developer shall give the purchaser sufficient time to review said information. Copies of the submittals shall be made available at all times at the sales office and shall be posted at various locations, as approved by the City, at the project site. Copies shall be provided to the homeowners' association upon its formation.
- D. **Final Information Submitted.** Prior to the close of escrow, the applicant shall submit the following information to the Community Development Department:
 - 1. Name, address and phone number of Homeowners' Association;
 - 2. Actual sale price of units;
 - 3. Actual Homeowners' Association fee;

4. Number of prior tenants who purchased units; and
 5. Number of units purchased with intent to be used as rentals.
- E. **Evidence of Conditions.** The applicant shall provide all warranties, reports, or evidence of conditions to the buyer of each unit, as required by the State, including, but not limited to:
1. *Condition of Equipment and Appliances.* The applicant shall provide a warranty to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks and air conditioners that are provided have a useful life of one year. At such time as the homeowners' association takes over management of the development, the developer shall provide a 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 have a useful life of one year. Prior to approval of the final map or parcel map if no final map is required, the developer shall provide the City with a copy of warranty insurance covering equipment and appliances pursuant to this section.
 2. *Warranty for Improvements.* The applicant shall provide to the Homeowners Association and/or purchaser a one year warranty on all physical improvements required under this section.
 3. *Long Term Reserves.* Prior to approval of the final map, or parcel map if no final map is required, the applicant shall provide evidence to the City that a long-term reserve fund for replacement has been established in the name of the homeowners' association. Such fund shall equal two times the estimated monthly homeowner's assessment for each dwelling unit.

19.45.050 Development Standards

- A. *Inspections and Compliance with Standards.* All condominium conversions must conform to the requirements of the district in which the project is located except as otherwise provided in this Chapter. An assessment of building condition shall be performed by the City Building Inspector prior to tentative map or parcel map approval, and a report of violations specified in the tentative subdivision report to the Zoning Administrator or Planning Commission, as the case may be. A physical inspection of every unit to ensure compliance with the Housing Code shall be required prior to final map approval or parcel map approval. The cost of the inspection shall be borne by the applicant. In addition to the requirements required in other sections of the Municipal Code, the conversion shall comply with the requirements in this section.
- B. *Variations.* Recognizing that the conversion of existing multiple residential structures to condominium usage presents unique problems with respect to the requirements of this chapter, the planning commission is empowered to vary any and all requirements

contained in this chapter with regard to a particular conversion proposal upon finding, based upon substantial evidence in the record, that the creation of the proposed condominium will meet the stated purposes of this chapter, based upon the following factors:

1. the age of the structure;
 2. the degree to which the proposal varies from the required standards for parking, private open space, storage space, sound transmission characteristics, fire protection and development criteria;
 3. whether there are unusual circumstances regarding the development's location, site or configuration;
 4. whether the project is in substantial compliance with both the development standards and development criteria; and
 5. whether there are mitigating features incorporated into the project.
- C. *Conditions.* The Planning Commission is also empowered to impose conditions on any approval given which would require that specified modifications, designed to bring a structure into compliance with the condominium development standards contained in this section, are made to the structure proposed for conversion.
1. Ground Fault Circuit Interrupters. Each kitchen and bathroom in each living unit shall be provided with ground fault circuit interrupters.
 2. Fire Prevention. 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. Sound Transmission Standards. The following standards shall apply to condominium projects to limit noise transmissions:
 - a. Shock Mounting of Mechanical Equipment. All permanent mechanical equipment, such as motors, compressors, pumps, and compactors, which are determined by the building official to be a source of structural vibration or structure-borne noise, shall be shock-mounted in inertia blocks or bases and/or vibration isolators in a manner approved by the building official.
 - b. Noise Resistance. Common walls and floors between dwelling units shall comply with the City's building code provisions governing noise resistance for newly constructed common walls and floors.
 4. Crime Prevention Standards. All condominium projects shall comply with the requirements of the Security Ordinance in Chapter 16.14 of the El Cerrito

Municipal Code. The developer shall comply with all conditions of the city's police department in respect to building security. In addition, prior to the approval of the final map, all locks in the project shall be changed so that no master key or other keys previously used will allow entry into any unit of the project after conversion.

5. Utility Metering. Except as otherwise provided in this paragraph, each dwelling unit shall be separately metered for water, gas and electricity. If the East Bay Municipal Utility District informs the applicant in writing that individual watering metering is not possible, or the Planning Commission finds that individual water metering is economically infeasible, a plan for equitable sharing of communal water metering shall be developed prior to final map approval (or parcel map approval if no final map is required) and included in the Covenants, Conditions and Restrictions. This plan shall be subject to Planning Commission approval. In such cases where the applicant can demonstrate that this standard cannot or should not reasonably be met, this standard may be waived by the Planning Commission.
6. Provision of Private Open Space for Each Unit. Each unit within the project shall have an appurtenant private patio, deck, balcony, atrium or solarium in accordance with Section 19.06.030.R and Section 19.07.030.N of the Municipal Code. Such space shall be designed for the sole enjoyment of the unit owner, shall have at least two weatherproofed electrical convenience outlets and such space shall be at the same level as, and immediately accessible from a room within the unit.
7. Provision of Storage Space for Each Unit.
 - a. In addition to guest, linen, food pantry and clothes closets customarily provided, each unit within the project shall meet minimum FHA storage standards. All exterior storage spaces shall be weatherproof, lockable and meet fire department requirements. Such space shall be for the sole use of the unit owner.
 - b. Such space may be provided in any location approved by the Planning Commission, but shall not be divided into more than two locations within a reasonable distance of the unit.
 - c. If such space is located within a common area within the project, the association shall be responsible for the care and maintenance of the exterior surface of the space in order to assure that that surface is maintained in a manner compatible with the architectural treatment of the project.
 - d. Regardless of the location, the precise architectural treatment of such space shall be approved by the planning commission to ensure that such

areas are safe, convenient and unobtrusive to the functional and aesthetic qualities of the project.

8. **Provision of Laundry Facilities.** Laundry facilities shall be provided in each unit, or if common laundry areas are provided, such facilities shall consist of not less than one automatic washer and dryer for each five units or fraction thereof. In such cases where the applicant can demonstrate that this standard cannot or should not be reasonably met, this standard may be modified by the Planning Commission.
9. **Condition of Paved Areas.** Prior to close of escrow of conversion units, the developer shall make any repairs necessary to all paved surfaces to meet current city standards.

19.45.060 Application Review and Evaluation

- A. **Review Procedure.** Applications for proposed condominium conversions shall be 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.
- B. **Annual Limitation.** The total number of rental units eligible for conversion to condominiums for the following year shall be determined by the Planning Commission at the last meeting of the fiscal year. The allotment shall be determined by balancing the existing vacancy rate, the number of units produced in the previous year and the existing housing stock.
- C. **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. The Planning Commission may give preference to projects with high percentages of affordable units included in the application. Units that are currently affordable should be converted into affordable condominiums.
 2. 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.

3. Conversion projects shall not be approved by the Commission if the total percentage of rental stock in the City is equal to or less than 15% of total dwelling unit stock.
4. 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 need and demand for lower cost home ownership opportunities which are increased by the conversion of apartments to condominiums.
 - 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 number of families on current waiting lists for assisted rental housing programs that operate in El Cerrito, not including nonprofit motivated projects.

19.45.070 Tenant Provisions

Notices to tenants shall be provided as required in the Subdivision Map Act, Government Code Section 66427.1. All written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail set forth in Code of Civil Procedure Section 1013..

- A. **Notice of Intent.** A notice of intent to convert shall be delivered by the Applicant to each tenant at least 60 days prior to filing of the parcel map or tentative map. The form of the notice shall be in the form outlined in the Subdivision Map Act, Government Code Section 66452.9, and approved by the Community Development Director.
- B. **Notice of Public Report.** Each tenant shall receive 10 days' written notice that an application for a public report will be or has been submitted to the Department of Real Estate and that such report will be available on request.
- C. **Notice of Final Map Approval.** Each tenant shall receive written notification within 10 days of approval of a final map for the proposed conversion.

- D. **Tenant's Right to Purchase.** Any present tenant shall be given notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report unless the tenant gives prior written notice of his or her intention not to exercise the right. Evidence of receipt by each tenant shall be submitted prior to approval of the final map.
- E. **Vacation of Units.** Each tenant not in default under the obligations of the rental agreement or lease under which he occupies his unit, shall be given a minimum of 180 days' written notice of intention to convert his or her unit prior to termination of tenancy. Leases that extend past the 180 days notification period shall be honored provided they do not extend more than an additional 180 days. The applicant shall notify each tenant immediately prior to the time of final map approval of the anticipated date required to vacate the unit and when the 180-day period will begin. Evidence of receipt by each tenant shall be submitted prior to approval of the final map.
- F. **No Increase in Rents.** The rents charged tenants when a completed tentative or parcel map application was accepted by the Community Development Department shall not be increased for two years from that acceptance time until the unit is sold or until the subdivision is denied, withdrawn or reverted to acreage. The increase in rent on a unit which has been vacated after receipt of the application by the Community Development Department shall not be subject to control.
- G. **Special Cases.** Any non-purchasing tenant who is handicapped or has minor children in school or is age 60 or older and does not accept a lifetime lease, living in any unit prior to the time a completed tentative or parcel map application has been accepted by the Community Development Department shall be given at least an additional six months in which to find suitable replacement housing.
- H. **Moving Expenses.** The applicant shall provide moving expenses of two times the monthly rent to any tenant household living in any unit prior to the time a completed tentative or parcel map application has been accepted by the Community Development Department as provided in this section. The applicant will not be required to provide moving expenses to a tenant moving in after tentative or parcel map application. Eligible tenants will receive moving expenses within fourteen (14) days after they relocate, except when the tenant has given notice of his intent to move prior to receipt of notification from the applicant of his intent to convert. The applicant shall also provide each tenant with a monthly list of other rentals available in Western Contra Costa County area beginning from the time of tentative or parcel map application until each tenant relocates or decides to purchase a unit.
- I. **Notice to New Tenants.** At least 60 days prior to the filing of the tentative map, the applicant shall give notice of the filing of the map to each person applying after such date for rental of a unit immediately prior to acceptance of any rent or deposit. The notice shall be in the form outlined in the Subdivision Map Act, Government Code Section 66452.8(b). If the applicant fails to give notice pursuant to this section, he or she shall pay to each

prospective tenant who becomes a tenant and who was entitled to such notice and who does not purchase his or her unit, an amount equal to two times monthly rent for moving expenses.

- J. **Senior Citizens.** At the time of final map approval, or parcel map approval if no final map is required, all tenant households resident at the time a completed tentative or parcel map application was accepted by the Community Development Department in which the head of household or spouse is age 60 or older shall be offered a Lifetime Lease. Annual rent increases shall not exceed 75 percent of the latest annual average percentage increase of the Residential Rent Component of the Consumer Price Index, San Francisco-Oakland SMSA. Tenants shall be informed of the change in this index at the time rent increases are imposed. Starting rents shall be the rent at the time of tentative or parcel map application. Lease forms shall be submitted to the Community Development Department for review prior to final map approval.
- K. **Low-and-Moderate Income Tenant.** At the time of final map approval, or parcel map approval if no final map is required, all tenant households resident upon acceptance by the City of a completed tentative or parcel map application, who meet the income limits of the HUD Section 8 program will be considered low- and moderate-income households and shall be offered at a minimum a three-year lease. Annual rent increases shall not exceed 75 percent of the latest annual average percentage increase of the Residential Rent Component of the Consumer Price Index, San Francisco-Oakland SMSA. Tenants shall be informed of the change in this index at the time rent increases are imposed. Starting rents shall be the rent at the time of tentative or parcel map application. Lease forms shall be submitted to the Community Development Department for review prior to final map approval.
- L. **Remodeling of Units.** No remodeling of the interior of tenant-occupied units shall begin until after the tenant has moved or agreed to purchase.

19.45.080 Required Findings

An application for conversion shall not be approved by the Planning Commission unless it finds all of the following:

- A. All provisions of this Chapter are met.
- B. The proposed project is consistent with the General Plan, and any applicable specific plans.
- C. The proposed project will conform to the El Cerrito Municipal Code in effect at the time of tentative or parcel map approval.
- D. The site is physically suitable for the type of development and the proposed density of the development.

- E. All parcels created have adequate and safe access from a public street for both vehicles and pedestrians.
- F. The proposed subdivision, together with the provisions for its design and improvement, are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, unless an EIR was prepared and a finding was made that specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible, pursuant to Section 21081(a)(3) of the Public Resources Code.
- G. The proposed conversion will not displace a significant percentage of low and moderate income or senior citizen tenants and delete a significant number of low and moderate income rental units from the city's housing stock at a time when no equivalent housing is readily available in the City of El Cerrito area.

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