

Article 6:

COMMON INTEREST DEVELOPMENT CONVERSIONS

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Sec. 9.2-0600:

Applicability

This article shall apply to all conversions of existing residential real property to condominium, community apartments, or stock cooperative projects or any other form of ownership except conversion projects which a final or parcel map has been approved by the City Council prior to the effective date of this ordinance, or where the conversion involved a limited equity housing cooperative as defined in Section 33007.5 of the Health and Safety Code. All provisions, conditions, and further definitions of condominium development as approved included in the California Civil Code shall apply to the divisions of real property as permitted herein.

Sec. 9-2.0605:

Development Review Required

In addition to the limitations and restrictions contained within this Chapter, the California Subdivision Map Act and the applicable building and fire regulations, no residential apartment unit shall be converted for sale, transfer, or conveyance as a community apartment project, stock cooperative project or condominium, without concurrently obtaining approval of a conditional use permit. The following information is required:

- 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, sound transmission levels between units, mechanical equipment, parking facilities and appliances.

Regarding each such element, the report shall state, to the best knowledge or estimate of the applicant, when such element was built; the condition of each element; the cost of replacing said element; and any variation or non-compliance of said element from the Development Code in effect at the time the application is filed with the City and Building Code in effect on the date 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.
- B.** A report from a licensed structural pest control operator, approved by the City, on each structure and each unit within the structure.
- C.** 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 soil problems relating to the structures. Reference shall be made to any previous soils reports for the site and a copy submitted with said report.
- D.** A statement of repairs and improvements to be made by the subdivider necessary to refurbish and restore the project to achieve a level of appearance and safety consistent applicable codes and ordinances, as specified in subdivision A of this section.
- E.** A Declaration of Covenants, Conditions and Restrictions in draft or outline form which would be applied to any and all owners of condominium units within the project. The Declaration shall include, but not be

limited to: the conveyance of units; 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 utility lines and services for each unit; and a plan for equitable sharing of communal water metering.

- F. 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 unit for previous five (5) years;
 3. Monthly vacancy rate for each month during preceding two (2) years;
 4. Makeup of existing tenants households, including family size, length of residence, age of tenants, and whether receiving federal or state rent subsidies;
 5. Proposed sale price of each unit;
 6. Proposed Homeowners' Association fee;
 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 by the Development Director.

- G. Signed copies from each tenant of Notice of Intent to Convert, as specified in section 9-2.0620. The subdivider shall submit evidence that a letter of notification was sent to each tenant for whom a signed copy of said notice is not submitted. This requirement shall be deemed satisfied if such notices comply with legal requirements for service by mail.
- H. Any other information which, in the opinion of the Development Director will assist in determining whether the proposed project will be consistent with the purposes of this Article.
- I. **Submittal of Budget.** The subdivider shall provide the City with a copy of the proposed budget for maintenance and operation of common facilities, including needed reserves, with the tentative map application. The budget shall show estimated monthly costs to the owner of each unit, projected over a five (5) year period, or such time as is required by the Department of Real Estate. Such budget shall be prepared or reviewed and approved by a professional management firm experienced with management of condominium complexes. The management firm shall submit a statement of professional qualifications.
- J. **Copy to Buyers.** The developer shall provide each purchaser with a copy of all submittals (in their final acceptable form) required by subsections A, B, C, D, E, H, and I, above prior to said purchaser executing any purchase agreement or other contract to purchase a unit within the project, and the 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 a notice indicating that such reports are available 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.
- K. **Final Information Submitted.** Prior to entering into escrow on the first unit, the subdivider shall submit the following information to the Planning Department:

1. Name, address and phone number of Homeowner's Association;
2. Actual sales price of units;
3. Actual Homeowner's Association fee;
4. Number of prior tenants who intend to purchase units; and
5. Number of units purchased with intent to be used as rentals.

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 Planning Department for review by any interested persons until the conclusion of the conversion process. The report shall be referenced in the subdivision report to the Planning Commission.

Sec. 9-2.0610:**Physical Standards for Condominium Conversions**

A. Adequate Physical Condition. To achieve the purpose of this Chapter, the Planning Commission shall require that all condominium conversions conform to the Ontario Development Code, in effect at the time of tentative map approval except as otherwise provided in this Article. In making the determination that the project is in conformance with the Municipal Code, the following will be required.

1. Prior to scheduling the tentative map for a public hearing, an inspection shall be conducted by the Building Department to determine project-wide conformance with Title 9, Chapter 1 of the Ontario Development Code and other applicable chapters of the Municipal Code. A report of any violations shall be included in the staff report to the Planning Commission. The subdivider shall be responsible for the payment of any fees related to the inspection of the project.
2. Prior to the approval of the final map, a physical inspection of the project site, including each individual unit, shall be made by the City of Ontario Building Department and Planning Department. Such inspection shall be made to ensure compliance with all applicable conditions of approval as specified in the tentative map and conditional use permit approval. All such corrections shall be made prior to the approval of the final or parcel map. The subdivider shall be responsible for the payment of any fees related to the inspection of the project.

B. Specific Physical Standards. The Planning Commission shall require conformance with the standards of this subsection in approving the map:

1. **Building Regulations.** The project shall conform to the applicable standards of the Uniform Building Code, Uniform Plumbing Code and Uniform Electrical Code in effect on the date that the last building permit was issued for the subject structure or structures except as provided herein.
2. **Health and Safety.** Each bathroom in each living unit shall be provided with ground fault circuit interrupters.
3. **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 Code standards as adopted by the City of Ontario.

- b. **Maintenance of Fire Protection Systems.** All fire hydrants, fire alarm systems, portable fire extinguishers, and other protective appliances shall be properly installed and maintained in an operable condition at all times.
- 4. **Parking.** Each unit shall be provided parking in accordance Article 30, Parking and Loading Requirements, of the Ontario Development Code.
- 5. **Sound Transmission:**
 - a. **Shock mounting mechanical equipment.** All permanent mechanical equipment such as motors, compressors, pumps, and compactors which is determined by the City to be a source of structural vibration or structure borne noise shall be shock mounted with inertial 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 the Uniform Building Code (UBC). In such cases where present standards cannot reasonable be met, the Planning Commission may require the applicant to notify potential buyers of the noise deficiency currently existing within these units.
- 6. **Utility Metering.** Each dwelling unit shall be separately metered for water, gas, and electricity, and each unit shall have a separate lateral connection to a trunk sanitary sewer. Alternatively, a plan for equitable sharing of these utilities shall be developed prior to final map approval and included in the Covenants, Conditions and Restrictions.
- 7. **Private Storage Space.** Each unit shall have at least one hundred fifty cubic feet of enclosed weather-proofed and lockable private storage space in addition to guest linen, pantry and clothes closets customarily provided. Such space may be provided in any location approved by the Planning Commission, but shall not be divided into two or more locations.
- 8. **Laundry Facilities.** A laundry area shall be provided in each unit; or if common laundry areas are provided, such facilities shall consist of not more than one (1) automatic washer and one (1) dryer equivalent capacity for every five (5) units with two (2) or more bedrooms; and every seven (7) units with one (1) bedroom.
- 9. **Landscape Maintenance.** All landscaping shall be restored as necessary and maintained in accordance with approved landscape plans. If a significant amount of new landscaping is required, revised/new landscape plans shall be submitted and approved by the Planning Department as part of the conditional use permit application. Such plans shall be subject to all applicable City Ordinances including but limited to Article of the Development Code.
- 10. **Condition of Equipment and Appliance.** The developer 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 at least one (1) year. At such time as the developer relinquishes control over management of the development, pursuant to the Covenants, Conditions and restrictions, the developer shall provide a warranty to the Association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanic equipment to be owned in common by the Association have a useful life of one (1) year. Prior to final map approval, the developer shall provide the City with a copy of Warranty Insurance covering equipment and appliances pursuant to this subsection.
- 11. **Refurbishing and Restoration.** All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscape areas, and additional elements as required by the Planning Department shall be refurbished and restored as necessary to achieve a degree of appearance, quality and safety consistent with applicable standards. The developer shall provide to

the Homeowners' Association and/or purchaser a one (1) year warranty on all physical improvements required under this Subparagraph. If substantial restoration is required, the design plans shall be subject to Commission approval.

- 12. Long Term Reserves.** Prior to approval of the final map, the developer shall provide satisfactory evidence to the City that a long-term reserve fund for replacement and repair has been established in the name of the Homeowners' Association. Such fund shall equal at least two (2) times the estimated monthly homeowners' assessment for each dwelling unit or an amount otherwise required by law.

Sec. 9-2.0615: Tenant Provisions

- A. Notice of Intent.** As provided in Government Code 66427.1(a), a Notice of Intent to Convert shall be delivered by the Subdivider to each tenant at least sixty (60) days prior to submitting an application for the tentative map and conditional use permit. The written notices to tenants required by this Section shall be deemed satisfied if such notices comply with the legal requirements for service by mail. The form of the notice shall be in the form outlined in Government Code Section 66452.9 and approved by the Planning Department and shall inform the tenants of all rights provided under this Chapter and State law.
- B. Notice of Public Report.** As provided in Government Code Section 66427.1(a), each tenant shall receive ten (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 from the Planning Department. The written notices to tenants required by this Section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.
- C. Notice of Final Map Approval.** As provided in Government Code Section 66427.1(b), each tenant shall receive written notification within ten (10) days of approval of a final map for the proposed conversion. The written notices to tenants required by this Article 9(Section) shall be deemed satisfied if such notices comply with the legal requirements for service by mail.
- D. Tenant's right to purchase.** As provided in Government Code Section 66427.1(d), any present tenant shall be given notice of an exclusive right to contract for purchase of his or her respective unit and 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 ninety (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. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.
- E.** The developer shall provide suitable alternate housing to tenant households, at no additional cost to the tenant, whose unit undergoes substantial remodeling or rehabilitation during conversion, if the unit being remodeled or rehabilitated is not habitable. The final determination of habitability and suitability shall be made by the City of Ontario Building Department. The developer shall avoid the economic displacement of nonpurchasing tenants in accordance with California Government Code Section 66427.5.

Sec. 9-2.0620:**Notice to New Tenants**

After submittal of the tentative map and development plan applications to the City, any prospective tenants shall be notified in writing of the intent to convert prior to leasing or renting any unit. The form of the notice shall be as follows:

To the prospective occupant(s) of _____ Address

The owner(s) of this building/project, at (address), has/have filed an application for a Tentative Map and Development Plan with the City of Ontario to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless and until the conversion is approved by the City and subsequently a public report is issued by the State Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which a notice is required pursuant to Section 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at such hearing.

(Signature of owner's agent)

(Dated)

I have received notice on _____ (Date)

Prospective tenant or tenants signature(s)

Sec. 9-2.0625:**Findings**

Prior to approval of the tentative map and development plan, the Planning Commission shall hold a public hearing. Notice of the hearing shall be given in accordance with Government Code section 65090 and Section 9-1.0450 of the Ontario Development Code. A copy of any staff report shall be served by the developer on each tenant of the subject property at least three (3) days prior to the hearing, either by personal service or by posting the report on the front door of the unit and mailing it to the tenant. The Planning Commission shall not approve a tentative map for conversion of apartment units unless the Planning Commission finds that:

A. Findings when there is not an increase in the number of units.

1. All provisions of this Article are met;
2. The proposed conversion is consistent with the goals, objectives, policies, general land uses and programs specified in the Ontario General Plan including the Housing Element, and with any applicable Specific Plan;
3. The overall design, physical condition and amenities of the condominium conversion are consistent with those associated with condominium developments throughout the City and such elements achieve a high degree of appearance, quality and safety;
4. The proposed project will not convert, during the current calendar year, more than five (5) percent of the potentially convertible rental units in Ontario for the current calendar year except as otherwise provided in this article; and

5. There is no evidence in the public hearing record to indicate that vacancies in the project were intentionally increased for the purposed of preparing the project for conversion; and
6. There is no evidence in the public hearing record to indicate that tenants have been coerced to publicly support or approve the conversion, or to refrain from publicly opposing it, or to forgo any assistance to which they may be entitled.

B. Findings when there is an increase in the number of units.

1. All provisions of this Article are met;
2. The proposed conversion is consistent with the goals, objectives, policies, general land uses and programs specified in the Ontario General Plan including the Housing Element, and with any applicable Specific Plan;
3. The maximum number of units proposed is consistent with the objectives, purposes and standards of the Ontario Development Code, and/or and applicable specific plan
4. With the increase in units, the project still meets the requirements of the Ontario Development Code and provides adequate parking, landscaping, open space, etc.
5. The overall design, physical condition and amenities of the condominium conversion are consistent with those associated with condominium developments throughout the City and such elements achieve a high degree of appearance, quality and safety;
6. The proposed project will not convert, during the current calendar year, more than five (5) percent of the potentially convertible rental units in Ontario for the current calendar year except as otherwise provided in this article; and
7. There is no evidence in the public hearing record to indicate that vacancies in the project were intentionally increased for the purposed of preparing the project for conversion; and
8. There is no evidence in the public hearing record to indicate that tenants have been coerced to publicly support or approve the conversion, or to refrain from publicly opposing it, or to forgo any assistance to which they may be entitled.