

**PLANNING DIVISION REGULATIONS FOR CONDOMINIUMS & APARTMENTS
R-3 & R-4 ZONING DISTRICTS**

The following table is meant to be a summary guide for condominium/apartment development. Please refer to the R-3/R-4 Zoning District Regulations and Chapter 26.30 (Condominium Subdivisions – New Construction) for a complete description of requirements.

REQUIREMENTS	CONDOMINIUMS	APARTMENTS
Submittal Requirements	<ul style="list-style-type: none"> <input type="checkbox"/> Submit application forms, plans and fees to the Planning Dept (refer to application checklist) <input type="checkbox"/> Required plans: <ul style="list-style-type: none"> • Site Plan • Floor Plans • Parking Plan • Building Elevations • Roof Plan • Site/Building Sections • Detailed Landscape Plan (must also indicate areas which receive sun and shade) <ul style="list-style-type: none"> • Location and type of exterior lighting on structure and common areas (show on Site Plan and Building Elevations) • Location of trash/recycling enclosure <input type="checkbox"/> File tentative condominium map application with the Engineering Dept <input type="checkbox"/> Submit copy of covenants, codes and restrictions (CC&R's) 	<ul style="list-style-type: none"> <input type="checkbox"/> Permitted use in R-3 & R-4, public hearing required if more than 4 units <input type="checkbox"/> Planning Commission review required if underground garage extends beyond required setbacks. <input type="checkbox"/> Required Plans: same as for condominium project
Setbacks	<p>Front 15' minimum or block average, whichever is greater (20' min. on El Camino Real applies to structures and underground garages)</p> <p>Side 5' minimum 6' for lots 54' – 61' wide 7' for lots over 61' wide 7½' for exterior side on corner lot</p> <p>All side setback requirements are minimums for single-story buildings and shall be increased one foot for each additional story over the 1st story</p> <p>Rear 15' minimum for first two stories 20' minimum to all stories above 2nd story</p>	<p align="center">same</p> <p>3' min. for lots 42' wide or less 4' min. for lots 42' – 51' wide 5' min. for lots 51' – 54' wide 6' min. for lots 54' – 61' wide 7' min. for lots 61' wide and greater 7½' min. for exterior side on corner lots</p> <p align="center">same</p>
Lot Coverage	50% maximum for interior lot 60% maximum for corner lot	same



PROCEDURE FOR ENVIRONMENTAL REVIEW OF A CONDOMINIUM OR APARTMENT PROJECT

Submit a multifamily residential project for preliminary review. If the project is for an apartment building with less than 5 dwelling units a CEQA categorical exemption may apply to the project and no public hearing will be required (CEQA Article 19 Section 15303 b). If an underground garage within the setback areas is proposed, Planning Commission approval will be required for the project (C.S. 25.32.090).

- If a condominium project, refer to "Community Development Department Regulations for Condominiums and Apartments in R-3 and R-4 Zoning Districts". A condominium project requires Planning Commission review and a public hearing with notice to property owners within 300' of the project.
- The following steps apply to both apartment and condominium projects requiring environmental review. For apartment projects which do not require other Planning Commission approvals, submit project plans to the Planning Division for review together with a Planning Commission application and the required fee.

Steps for Environmental Review for Apartment and Condominium Projects with 5 Units or More

1. Staff reviews the project with the applicant and discusses the time frame. Any comments from Planning Division staff will be included.
2. Applicant submits to the Planning Division a complete application with an environmental information form and design development plans for the apartment building.
3. Staff completes an Initial Study and makes a determination on the appropriate environmental document (Negative Declaration, Mitigated Negative Declaration or Environmental Impact Report).
 - 3a. If an **Environmental Impact Report** is required, city staff selects an environmental consultant from those which have on-call contracts with the City. The applicant deposits the amount of the contract plus City fee with the Planning Division. Staff then administers the environmental contract, and the document is prepared by the consultant.
 - 3b. If a **Negative Declaration** or **Mitigated Negative Declaration** is required, staff will determine if the environmental document can be prepared by staff or if by an environmental consultant. The applicant may submit studies prepared by professionals to quantify impacts.
4. **Negative Declaration** or **Mitigated Negative Declaration** processing is handled by the Planning Division with review through the Planning Commission. Completion of the necessary environmental documents and the Planning Commission schedule determines the time frame for processing. If studies for the Negative Declaration are required they must be completed and submitted prior to staff finding the application is complete.
5. The **Negative Declaration** or **Mitigated Negative Declaration** is reviewed with other city Departments. After review of any comments from other Departments, evaluation of any required studies, and revisions to the plans, the Negative Declaration will be circulated for review as required by State Law, and scheduled for review by the Planning Commission.

6. The project is reviewed at two Planning Commission meetings, a study meeting and a public hearing. Planning Commission meetings are held at 7:00 P.M. on the second and fourth Mondays of the month. The public hearing is noticed to property owners within 300' of the project. The Planning Division encourages the applicant to discuss with neighbors the project prior to the public hearing.
7. Following the public hearing and Planning Commission action, the applicant or any citizen may appeal the Planning Commission decision to the City Council within 10 days from the date of the Planning Commission decision.
8. If appealed, the **Negative Declaration** or **Mitigated Negative Declaration** and the project, is scheduled for the next available City Council agenda. The City Council holds a public hearing before taking action. City Council action is the final city action on the project.
9. After completion of city review and acceptance of the Negative Declaration, the applicant may apply for a building permit. This approval is valid for one year, from the last date of city action. All actions are eligible for a single, one-year extension, before they expire.

**COMMUNITY DEVELOPMENT DEPARTMENT ENVIRONMENTAL REVIEW REQUIREMENTS
FOR CONDOMINIUMS AND APARTMENTS**

CEQA REGULATIONS	CONDOMINIUMS	APARTMENTS
Categorical Exemptions	<ul style="list-style-type: none"> - If no more than 4 units - Planning Commission review required for all Condominiums - Public Hearing and noticed to neighbors within 300' 	<ul style="list-style-type: none"> - If no more than 4 units - If underground garage within setbacks requires review by Planning Commission required with public hearing and notice
Negative Declaration (ND)	<ul style="list-style-type: none"> - 5 or more units - Staff prepares Initial Study - If no significant effects on the environment can apply ND - Requires submittal to Planning Commission - Public Hearing and noticed to neighbors within 300' 	<ul style="list-style-type: none"> - 5 or more units - Staff prepares Initial Study - If no significant effects on the environment can apply ND - Requires submittal to Planning Commission - Public Hearing and noticed to neighbors within 300'
Mitigated Negative Declaration (MND)	<ul style="list-style-type: none"> - City selects Environmental Consultant to prepare Mitigated Negative Declaration (MND). - Applicant deposits money for MND preparation, City administers contract. - MND prepared for State and public review; noticed to neighbors within 300' - Project as designed will mitigate effects on the environment then can apply MND - MND reviewed at Planning Commission public hearing for the project 	<ul style="list-style-type: none"> - City selects Environmental Consultant to prepare Mitigated Negative Declaration (MND). - Applicant deposits money for MND preparation, City administers contract. - MND prepared for State and public review; noticed to neighbors within 300' - Project as designed will mitigate effects on the environment then can apply MND - MND reviewed at Planning Commission public hearing for the project
Environmental Impact Report (EIR)	<ul style="list-style-type: none"> - Staff determines project has potential to have significant effect on environment and requires EIR - City selects Environmental Consultant to prepare EIR. - Applicant deposits money for EIR preparation, City administers contract. - EIR prepared for State and public review; noticed to neighbors within 300' - EIR reviewed at Planning Commission public hearing for the project 	<ul style="list-style-type: none"> - Staff determines project has potential to have significant effect on environment and requires EIR - City selects Environmental Consultant to prepare EIR. - Applicant deposits money for EIR preparation, City administers contract. - EIR prepared for State and public review; noticed to neighbors within 300' - EIR reviewed at Planning Commission public hearing for the project

**INCLUSIONARY ZONING REGULATIONS
RESIDENTIAL PROJECTS OF FOUR OR MORE DWELLING UNITS**

The following table is meant to be a summary guide for inclusionary zoning required for all residential projects of four or more dwelling units. Please refer to Chapter 25.63 for a complete description of requirements.

<i>What is the purpose of inclusionary zoning?</i>	The City's goal is to provide a variety of housing opportunities in the community. The purpose of the inclusionary housing requirements is to increase the housing supply for households that have very low, lower and moderate incomes compared to the median household income for San Mateo County.	
<i>What is an affordable dwelling unit?</i>	A dwelling unit for which either the rent or lease amount to be charged or the sale price is at or below the amounts specified for affordability for persons and families of very low, lower, or moderate income, as defined in sections 50052.5 and 50053 of the California Health and Safety Code.	
<i>What type of project does inclusionary zoning apply to?</i>	<ul style="list-style-type: none"> • Any residential subdivision of 4 or more lots from a single parcel • Condominiums • Apartments • Conversion of apartments to condominiums • Planned unit developments • Mobilehome developments 	
<i>Can in-lieu fees be paid instead of building affordable units?</i>	No. The developer must build the required amount of affordable units for the project.	
<i>How long are the dwelling units required to be kept affordable?</i>	An affordable dwelling unit shall be kept affordable for at least 10 years. If more than two incentives are requested, the affordable dwelling units shall be kept affordable for at least 30 years (see below).	
<i>How many affordable dwelling units are required for a project?</i>	<u>Number of Dwelling Units in Project</u> 1 to 3 4 to 12 over 12	<u>Number of Affordable Dwelling Units Required</u> 0 1 one unit for every 10 dwellings units (fraction will be rounded up)
<i>What are the size requirements for an affordable dwelling unit?</i>	<u>Type of Unit</u> Studio One Bedroom Two Bedroom	<u>Minimum Size</u> 500 SF 650 SF 800 SF

Table continued on next page.

**INCLUSIONARY ZONING REGULATIONS
RESIDENTIAL PROJECTS OF FOUR OR MORE DWELLING UNITS**

<p><i>What incentives are offered?</i></p>	<p>Two (2) of the following incentives may be used:</p> <ol style="list-style-type: none"> 1. Building height of 46'-0" or less without a conditional use permit; or 2. Reduction of common open space in the rear yard by up to 50% or 200 SF, whichever is greater, without a variance (no dimension of the common open space provided can be less than 10'-0" in any direction); or 3. If more than 10 on-site parking spaces are required for the project, 50% of the required parking may be provided as compact parking stalls without a variance.
<p><i>Are there any additional incentives if an affordable unit is kept for 30 years?</i></p>	<ol style="list-style-type: none"> 1. If the developer or applicant enters into an agreement to extend the affordability of the units to 30 years, the following additional incentive applies: <ul style="list-style-type: none"> • Required parking may be reduced by one space per affordable dwelling unit provided; however this incentive only applies to studio or one-bedroom affordable units. 2. If the developer or applicant enters into an agreement to make all required affordable dwelling units in the project affordable to very low income or low income households for 30 years, the following additional incentive applies: <ul style="list-style-type: none"> • Required parking may be reduced to one space per one-bedroom unit for all of the one-bedroom and studio dwelling units in the proposed project.
<p><i>What type of design and construction is required for an affordable unit?</i></p>	<p>The design and construction of affordable dwellings units must be compatible with the design, unit layout, and construction of the total project development regarding appearance, construction materials, and finished quality and must conform to general plan standards.</p>
<p><i>How is the resale price of an affordable unit determined?</i></p>	<p>Developer must work with a third party manager and propose a program to the City for approval.</p> <p>Refer to attached C.S. 25.63.045 - Maintenance of Affordability.</p>

FY 2009 Federal Income Limits

	MAXIMUM SALARY BASED ON NUMBER OF PERSONS IN FAMILY							
	1	2	3	4	5	6	7	8
Extremely Low Income	23,750	27,150	30,550	33,950	36,650	39,400	42,100	44,800
Very Low Income	39,600	45,250	50,900	56,550	61,050	65,600	70,100	74,650
Low Income	63,350	72,400	81,450	90,500	97,700	104,950	112,200	119,450
Moderate Income	79,800	91,200	102,600	114,000	123,100	132,250		

Source: U.S. Department of Housing and Urban Development (HUD) limits for income categories for low and very low income households, FY 2009 limits, March, 2009.

PLANNING DEPARTMENT REGULATIONS FOR CONDOMINIUMS & APARTMENTS
R-3 & R-4 ZONING DISTRICTS

REQUIREMENTS	CONDOMINIUMS	APARTMENTS
Height	Conditional Use Permit if height exceeds 35' above average top of curb level	same
Parking	1.5 spaces – studio/1 bedroom 2 spaces – 2 bedroom 2.5 spaces – 3 or more bedrooms Compact Allowed (applied to total of standard & guest spaces req'd): 1 for 1-10 required spaces 2 for 11-20 required spaces 3 for 21+ required spaces	same no compact allowed
Guest Parking	Guest parking spaces are required in addition to parking requirements above and may be compact. 1 for 2-4 dwelling units 2 for 5-15 dwellings units 3 for 15 or more units	no guest parking required
Parking for Service Vehicles	Must provide an area on-site, not in the parking access driveway, for service vehicles to make deliveries. • Service vehicle parking may be provided in the driveway for those projects with a circular driveway.	none required
Front Setback Landscaping	50% minimum of the required front setback must be soft landscaping • special permit may be requested for 45% if circular driveway is proposed	60% minimum of the required front setback must be soft landscaping
Private Open Space	75 SF min. per unit contiguous • ground floor unit must have minimum dimension of 10' • above ground floor units must have minimum dimension of 3½'	none required
Common Open Space	100 SF minimum per unit • must have min. dimension of 15' • 50% of area must be soft landscaping • must be within 6' of established grade	none required

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Chapter 25.63

INCLUSIONARY HOUSING

Sections:

- 25.63.010 Purpose.**
- 25.63.015 Definitions.**
- 25.63.020 Residential development projects.**
- 25.63.030 Incentives for development projects.**
- 25.63.040 Affordable housing development standards.**
- 25.63.045 Maintenance of affordability.**
- 25.63.050 Length of affordability.**
- 25.63.060 Agreement required.**
- 25.63.070 Sales contracts and agreements.**

25.63.010 Purpose.

(a) The purpose of the inclusionary housing requirements is to increase the housing supply for households that have very low, lower and moderate incomes compared to the median household income for San Mateo County. The primary objective is to create actual housing units, either rental or "for purchase" units, rather than equivalent fees or cash. The affordability requirements associated with residential development projects are a form of "inclusionary zoning." This chapter establishes the inclusionary housing program. The program is also implemented through guidelines as adopted and amended from time to time by the city council.

(b) The city does not have density limits within the R-3 and R-4 districts in this title. Instead, property owners are free to build dwelling units, so long as they conform to the other development standards of the title. Therefore, the city is not able to provide a density incentive, but must instead provide incentives with regard to height, open space, and parking requirements. (Ord. 1714 § 2, (2003))

25.63.015 Definitions.

Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

(a) "Affordable dwelling unit" means a dwelling unit for which either the rent or lease amount to be charged or the sale price is at or below the amounts specified for affordability for persons and families of moderate income, as defined in Sections 50052.5 and 50053 of the California Health and Safety Code.

(b) "Residential development" means any new residential construction of rental or for-sale units; or development revisions, including those with and without a master plan or specific plan, planned unit developments, site development plans, mobilehome developments, and conversions

of apartments to condominiums, as well as dwelling units for which the cost of shelter is included in a recurring payment for expenses, whether or not an initial lump sum fee is also require. (Ord. 1714 § 2, (2003))

25.63.020 Residential development projects.

(a) Applicability. This chapter shall apply to conditional use permits, conditional development permits, planned development permits, subdivision approvals, architectural control approvals, variance approvals, and construction permits for any residential development project of four (4) or more units on a single parcel. If the city determines that a person has subdivided property to avoid the applicability of this chapter, the developer shall be subject to the chapter. This chapter also applies to condominium conversions.

(b) Requirements. Any developer of a project subject to this chapter shall provide not less than the following:

Number of Dwelling Units in Project	Number of Affordable Dwelling Units Required
1 to 3	0
4 to 12	1
Over 12	One unit for every 10 dwelling units

(fraction will be rounded up)

(c) Review Process. As part of an application for a residential development project subject to this chapter, the developer shall submit a below market rate housing program plan. The plan shall describe in detail the developer's proposal for meeting the requirements of this chapter.

(d) Permits. No construction or building permit or other land use authorization may be issued or approved for a residential development unless the requirements of this chapter have been met. (Ord. 1714 § 2, (2003))

25.63.030 Incentives for development projects.

(a) Generally. The provisions of this section shall apply to residential developments that provide one or more affordable dwelling units in accordance with the provisions of this chapter.

(b) Incentives. To meet the requirements of this chapter, a developer may use two (2) of the following incentives or their equivalents as determined by the planning commission:

(1) A height for structures of forty-six (46) feet in height or less without a conditional use permit pursuant to Section 25.32.030 or as applied to Chapter 25.34 or pursuant to Section 25.40.025; **OR**

(2) Reduction of common open space in the rear yard of a residential development by up to fifty (50) percent or

two hundred (200) square feet, whichever is more, without necessity of a variance, so long as no dimension of the common open space provided is less than ten (10) feet in any direction; or

(3) If the development requires provision of more than ten (10) on-site parking spaces, allowance of up to fifty (50) percent of the required parking as compact parking stalls as defined in Chapter 25.70 without necessity of a variance.

(c) Additional Incentives.

(1) If the developer or applicant is willing to enter into agreement to extend the affordability of the units subject to this chapter from ten (10) years to thirty (30) years, the required parking can be reduced by one space per affordable dwelling unit provided pursuant to this chapter, but this provision only applies to affordable dwelling units that are studios or one bedrooms.

(2) If the developer or applicant is willing to enter into an agreement to make all required affordable dwelling units in the project affordable to very low income or low income households for the duration of the thirty (30) years, the required parking can be reduced to one space per one-bedroom unit for all of the one-bedroom and studio dwelling units in the proposed project. (Ord. 1714 § 2, (2003); Ord. 1764 § 4 (part), (2005)) **ORD. 1760 (7.19.05)**

25.63.040 Affordable housing development standards.

The affordable housing standards are as follows:

(a) Concurrent Construction. The required affordable dwelling units shall be constructed concurrently with market-rate units unless both the final decision-making authority of the city and developer agree within the affordable housing agreement to an alternative schedule for development.

(b) Design. The design and construction of the affordable dwelling units shall be consistent with general plan standards; compatible with the design, unit layout, and construction of the total project development in terms of appearance, construction materials, unit layout, and finished quality and conform to general plan standards; and consistent with affordable residential development standards that may be prepared by the planning department as adopted by the city council.

(c) Minimum Dwelling Unit Size. To qualify as affordable dwelling units under this chapter, the affordable dwelling units shall meet the following minimum size requirements, excluding common areas, storage units, and assigned parking areas or spaces:

Type of Unit	Minimum Size
Studio	500 square feet
One-bedroom	650 square feet
Two-bedroom	800 square feet

(d) Sale of Affordable Dwelling Unit. Any sale of an individual affordable dwelling unit governed by this chapter shall require continuous occupancy by the owner of the dwelling unit. (Ord. 1714 § 2, (2003))

25.63.045 Maintenance of affordability.

(a) Base Resale Price. The price at which the owner purchased the affordable unit shall be adjusted by the percentage increase or decrease in the median annual income at one hundred (100) percent of median of a family of four (4) in San Mateo County. The percentage increase or decrease shall be computed for the period that the affordable unit has been held by owner. This adjusted price shall be increased by the market value, if any, of any documented, permanent capital real estate or fixed improvements approved by the city. No price adjustment will be made except upon presentation to the city of written documentation of all expenditures made by the owner for which an adjustment is requested. The adjusted price shall be decreased by the amount necessary to repair any damages and to put the unit into a sellable condition, including items such as paint, cleaning, construction repairs, and to bring the unit into conformity with all applicable provisions of this code and the affordable housing guidelines that may be established by the city. The value of price adjustments shall be reasonably determined by the city. The resulting price shall be the base resale price of the unit.

(b) No affordable dwelling unit subject to this chapter and the agreement provided under this chapter shall be rented, leased, or sold except in accordance with this chapter and the governing agreement. (Ord. 1714 § 2, (2003))

25.63.050 Length of affordability.

An affordable dwelling unit provided pursuant to this chapter shall be kept affordable for a period of at least ten (10) years. If more than two (2) incentives are requested and approved for a residential development or if Section 25.63.030(c) applies, the affected affordable dwelling units shall be kept affordable for a period of at least thirty (30) years. (Ord. 1714 § 2, (2003))

25.63.060 Agreement required.

(a) The affordability required by this chapter shall be established by an agreement between the city and the developer and be binding on the heirs, successors and assigns of the developer.

(b) The agreement shall not be amended without the approval of the planning commission, and should any matter of substance be affected, the review of the proposed amendment to the agreement shall be subject to all substantive and procedural requirements of this chapter. (Ord. 1714 § 2, (2003))

25.63.070 Sales contracts and agreements.

Nothing contained in this chapter shall be interpreted to prevent or prohibit persons from entering into any contract or agreement for sale or acquisition, such as a contract or agreement or other arrangement, that provides for a first right of refusal upon sale of a dwelling unit, for equity sharing, for a right of reentry, or for other means by which a developer or owner of the dwelling unit seeks to secure its investment and a fair return while at the same time ensuring the affordability of the unit in conformance with this chapter. The city intends to only affect the freely transferable rights in real property insofar as reasonably necessary as defined in this chapter. (Ord. 1720 § 2, (2003))

Chapter 26.30

CONDOMINIUM SUBDIVISIONS

Sections:

26.30.010	Purpose.
26.30.020	New construction permit required.
26.30.025	Conversion permit.
26.30.028	Conversion from stock cooperative to condominium.
26.30.030	Community apartments.
26.30.040	Definitions.
26.30.050	Initiated projects.
26.30.060	Basic standards.
26.30.070	Minimum project requirements.
26.30.080	Time limits.

26.30.010 Purpose.

This chapter is adopted to ensure each condominium project supports sound community planning; supports the economic, ecological, social and aesthetic qualities of the community; and supports the public health, safety and general welfare. Review criteria are needed to adequately evaluate residential, commercial and industrial condominium subdivisions and insure that they are consistent with the purposes of this chapter, the city's general plan, its implementing zoning, and this code. (Ord. 1706 § 2, (2003))

26.30.020 New construction permit required.

Before final approval and issuance of any building permit for any condominium or condominium project, a developer, builder or other person seeking to construct such a project shall first apply for and obtain from the planning commission a condominium permit. A condominium permit shall be issued only:

(a) Upon approval of the planning commission, or city council upon appeal or review, finding that the project conforms to the provisions of Chapter 26.30 and to all applicable zoning regulations of Title 25 of this code; and

(b) Upon payment of fees in the amount required by this code and resolution of the city council.

Applications for condominium new construction permits shall be evaluated and processed pursuant to the procedural requirements set forth for conditional use permits in Title 25 of this code. (Ord. 1015 § 1 (part), (1974); Ord. 1706 § 2, (2003))

26.30.025 Conversion permit.

Any developer, builder or other person seeking to convert an existing structure to a condominium shall first ap-

ply for and obtain from the planning commission a condominium conversion permit pursuant to Chapter 26.32. Condominium conversions shall be limited to a parcel containing structures with a total of more than twenty (20) residential units or with commercial, office, or industrial structures with a total of more than twenty thousand (20,000) square feet. Applications for condominium conversion permits shall be evaluated and processed pursuant to the procedural requirements set forth for conditional use permits in Title 25 of this code. (Ord. 1015 § 1 (part), (1974); Ord. 1206 § 1, (1981); Ord. 1706 § 2, (2003))

26.30.028 Conversion from stock cooperative to condominium.

(a) Notwithstanding any other provision of this code, including any provision of Chapter 26.32, a stock cooperative as defined in Section 1351 of the Civil Code may be converted to a condominium as defined in Section 783 of the Civil Code if all of the following are met:

(1) The stock cooperative was legally organized and created pursuant to state and local law in effect at the time of the organization and creation, and the stock cooperative has continued in uninterrupted existence until the date of the conversion; and

(2) A tentative map and final map for a condominium are filed and approved by the council as provided in Chapter 26.08 in the forms provided for other condominium maps under this title; and

(3) All persons renting units in a cooperative are provided all tenant rights under state and local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits as described in Section 26.33.060.

(b) If the stock cooperative conversion is exempt from the Subdivision Map Act pursuant to Government Code Section 66412, then subsection (a)(2) shall not apply to the conversion application. Instead, the application shall be reviewed by the planning commission for conformance with Section 66412 and subsections (a)(1) and (a)(3) of this section, and upon approval by the commission, the city will certify conformance with Section 66412 and this section in a form to be recorded with the county recorder.

(c) Procedures for filing and approval of applications under this section, as well as appeals from decisions made, shall follow Sections 26.08.020, 26.08.021 and 26.08.030, as applicable, and Section 25.16.060. (Ord. 1829 § 2, (2008))

26.30.030 Community apartments.

Community and cooperatively owned apartments or commercial, office, or industrial units shall be subject to the same restrictions, conditions, requirements and appli-

cation fees as new condominiums and condominium conversions under Chapter 26.32. (Ord. 1015 § 1 (part), (1974); Ord. 1706 § 2, (2003))

26.30.040 Definitions.

For the purpose of this title, the following words and phrases shall have the following definitions:

(a) "Common areas" means the entire project, excepting all units therein granted or reserved.

(b) "Community or cooperatively owned" means a development in which an undivided interest in the land is coupled with the right of exclusive occupancy of an apartment or space within a commercial building located thereon. For all purposes of this code, community or cooperatively owned structures shall be subject to the same restrictions, conditions and regulations as condominiums.

(c) "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 such as an apartment, office or store. A condominium may include, in addition, a separate interest in other portions of real property. Such separate interest may, with respect to the duration of its enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, (3) an estate for years, such as a leasehold or sublease hold, or (4) a right of use. For the purposes of this chapter, a townhouse is a condominium.

(d) "Condominium project" means the entire parcel, or portion thereof, or real property, including all structures thereon, subdivided or to be subdivided, for the purpose of constructing or converting existing structures to condominium units.

(e) "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.

(f) "Open space" means that area of a lot which is:

(1) Open and unobstructed from the ground to the sky; or

(2) Open and unobstructed from the ground to roof eaves or balconies above the ground floor; or

(3) Area covered by swimming pools and swimming pool equipment enclosures, or other recreation-oriented construction and equipment or decks, including such areas as designated and equipped exercise facilities, meeting rooms, or other improved areas approved by the planning commission.

(g) "Units" means the elements of a condominium which are not owned in common with the owners of other

condominiums in the project. (Ord. 1015 § 1 (part), (1974); Ord. 1706 § 2, (2003); Ord. 1810 § 2, (2007))

26.30.050 Initiated projects.

No condominium project, regardless of when initiated, for which a building permit has been issued shall be exempt from the requirements of obtaining a condominium permit or condominium conversion permit unless actual construction has commenced. (Ord. 1015 § 1 (part), (1974))

26.30.060 Basic standards.

The following condominium standards shall apply to all land and structures proposed as a part of a condominium project and shall be evaluated and processed pursuant to the procedural requirements set forth for conditional use permits in Title 25 of this code. No condominium project or portion thereof shall be approved or conditionally approved in whole or in part unless the planning commission, or city council upon appeal or review, has reviewed and found the project conforms to the following on the basis of its effect on: sound community planning; the economic, ecological, social and aesthetic qualities of the community; and on public health, safety and general welfare:

(a) The overall impact on schools, parks, utilities, neighborhoods, streets, traffic, parking and other community facilities and resources;

(b) Conformity with the general plan, including the housing element, and zoning density and design regulations;

(c) A detailed development and site plan of the project including: the location, treatment and sizes of structures; separation between living units and along property lines; parking layout, access areas and exterior elevations; location and use of common areas and other designated open space and security provisions; and location of loading zone and trash enclosure, including recycling area, and mechanical equipment;

(d) A detailed landscaping plan indicating sun and shade patterns on the site, the types and sizes of landscaping materials retained and to be installed, and their suitability to the sun and shade conditions on the site;

(e) A detailed lighting plan indicating location and nature of lighting and lighting fixtures on all structures and in the common areas;

(f) A copy of conditions, covenants and restrictions and any condominium agreements for the project setting forth the occupancy and management policies for the project;

(g) For each condominium unit, floor plans indicating the total floor area, the number, type and size of rooms, the

type of separation walls; provisions for achieving sound control and privacy; provisions for insulating exterior walls and roof from heat and cold; and location of hot water heaters, furnaces and storage areas within each unit and in the common areas; and

(h) Provisions for the dedication of land or easements for street widening, public access or other public purposes, where necessary, and in accordance with established planned improvements. (Ord. 1015 § 1 (part), (1974); Ord. 1706 § 2, (2003); Ord. 1810 § 3, (2007))

26.30.070 Minimum project requirements.

Except as otherwise provided by law, in approving or conditionally approving any condominium project, the following shall be required:

(a) Parking.

(1) For multiple-family residential condominiums, there shall be off-street parking as required by Chapter 25.70 of this code and at least one parking space shall be in the ownership of each residential unit. No on-site parking spaces shall be rented or leased to any on- or off-site person. Compact parking spaces shall be allowed in residential condominium development in the following ratio, but only if no unistall parking for required parking spaces is used:

Required Parking Spaces	Allowable Compact Spaces
1—10	1
10—20	2
Over 20	3

(2) On-site guest parking spaces shall be provided for all residential condominium and cooperative developments. Guest parking spaces shall be held in common ownership, shall not be rented or assigned to residents or non-residents, and shall not be sold or transferred except with the sale of all units as a single entity. Guest parking spaces may be designed to compact standards as defined in Chapter 25.70. Guest parking spaces shall be provided in residential condominium and cooperative development in the following ratio:

Number of Dwelling Units	Required Guest Parking Spaces
2—4 units	1
5—15 units	2
15 or more	3

(3) Except for residential condominium developments in the El Camino North (ECN district with a lot front on El Camino Real and with no frontage on any other street, all

residential condominium developments shall provide an area for on-site deliveries.

(4) For commercial condominiums and commercial uses in mixed use residential condominiums, there shall be off-street parking as required by this code, which may include compact parking as allowed in Chapter 25.70. However, if any unistall parking is used for any required parking, no compact parking is allowed.

(5) Parking requirements compliant with the American Disabilities Act shall be provided on site as required by the California Building Code as adopted by this code.

(b) Access, Vehicular Driveways, and Parking Areas.

(1) All private streets, driveways, and parking areas shall be improved and constructed with a structural section in accordance with city standards. They shall be designed and maintained to insure access for municipal services to any dwelling unit therein.

(2) Only temporary parking for service vehicles shall be allowed in the driveway between the front property line and the face of the building. Calculation of private open space and common open space at ground level shall not include any vehicular driveways or parking areas.

(c) Setback Requirements. Front, side, and rear setbacks shall be as required by the zoning district regulations applicable to the real property being developed.

(d) Conditions, Covenants and Restrictions Agreements. Conditions, covenants and restrictions agreements shall contain, but not be limited to, adequate provisions for maintenance, repair and upkeep of all structures, site landscaping and other on-site improvements; provisions that in the event of destruction or abolishment, reconstruction shall be in accordance with codes in effect at the time of such reconstruction; and provisions for dedication of land or establishment of easements for street widening or other public purpose. Covenants, conditions and restrictions shall describe: powers, duties, rights and obligations set forth in Civil Code Section 1355; the proposed form of owners' association; and suggested by-laws, maintenance agreements, use restrictions, and special funds to cover emergency repairs; and require and enforce that on-site parking spaces be owned or assigned to condominium owners or held in common ownership by the condominium association shall be used only by bicycles or currently registered and operable motor vehicles as defined by the Vehicle Code.

(e) Landscaping and Open Space Standards.

(1) Front setback landscaping for residential condominium or cooperative development. Landscaping is required between the front property line and face of the building equal to and not less than fifty (50) percent of the lot area within the required front setback. Emphasis should be placed on minimizing turf and ground cover areas and

on planting larger scale and more vertical plant material which will frame and screen the view of the structure from the street. If a circular drive is provided a special permit may be requested to reduce the required front setback landscaping to forty-five (45) percent of the lot area within the required front setback.

(2) Site landscaping shall be suitable for the specific sun/shade environment of the lot.

(3) Private open space for residential condominium or cooperative development. Private open space shall be provided for each unit and shall be contiguous and directly accessible to each unit, except in the ECN district where private open space shall not be required for dwelling units on the ground floor. Private open space may be paved or landscaped and shall be screened or fenced for the privacy of the residential unit when located within four (4) feet of established grade. Decks and balconies when designated for outdoor use may be used to satisfy this requirement. The following minimum standards for private open space shall apply:

(A) Seventy-five (75) square feet for each ground floor unit with no dimension of the designated area less than ten (10) feet;

(B) Seventy-five (75) square feet for each unit above the ground floor with no dimension of a designated area less than three and one-half (3-1/2) feet.

(4) Common open space for residential condominium and cooperative development. In addition to private open space, open space accessible to or enjoyed by all project residents shall be provided at not less than one hundred (100) square feet per dwelling unit, with no dimension of any designated common open space area to be less than fifteen (15) feet. Such common areas may be designed for passive or active use, and include landscaping or paving, provided such paving does not exceed fifty (50) percent of the total required area. Common open space areas may be provided within the required rear setback area, or when the rear setback is inadequate, the open space may be provided on appropriately designed, rooftop areas.

(5) Common open space for commercial and industrial condominium developments. Common open space may be provided above the first floor, but is not required.

(f) Project Plans and Submittals. Project plans shall indicate accessibility for owners, guests, employees and customers to parking, storage, recreation and service areas; separation between living units and along property lines; provisions for security; orientation with respect to surrounding buildings and land uses; the location and type of utilities, building services and separate facilities for individual units and access easements to make repairs including:

(1) Separate gas and electric meters and separate water shutoff valves; individual residential unit climate controls and any proposed climate zones (based on types of unit uses) for non-residential condominium projects;

(2) Shock mounting of mechanical equipment to reduce sound transfer;

(3) Flexible connectors for electrical and plumbing connections;

(4) Sound levels shall satisfy adopted noise element criteria and all state standards;

(5) Other reports may be required by the city as a condition for approving a condominium permit including an economic report, social impact of relocation procedures; report of structural condition; report on building compliance with all building, fire and zoning codes for proposed uses; certificate of occupancy; and sufficient additional information prepared by licensed professionals to evaluate the soundness of the conversion proposed project. (Ord. 1015 § 1 (part), (1974); Ord. 1706 § 2, (2003); Ord. 1810 § 4, (2007))

26.30.080 Time limits.

A condominium permit granted or issued pursuant to this title shall become null and void when the tentative map for the condominium project expires because no final map has been filed in accordance with state law and this code, rather than the expiration time limit for planning approvals specified in Chapter 25.16. (Ord. 1810 § 5, (2007))

Chapter 26.32

CONDOMINIUM CONVERSION PERMITS

Sections:

26.32.010	Purpose.
26.32.020	Condominium conversion permit required.
26.32.025	Conversion prohibited for twenty or fewer units or less than 20,000 square feet if commercial office, or industrial.
26.32.030	Application requirements.
26.32.040	Physical elements report.
26.32.050	Additional submittals.
26.32.060	Acceptance of reports.
26.32.070	Copy to buyers.
26.32.080	Physical standards for condominium conversions.
26.32.085	Minimum project requirements.
26.32.090	Hearing.
26.32.100	Hearing considerations.
26.32.110	Findings.

26.32.010 Purpose.

The city finds and determines that condominiums differ from buildings in which all units are in a single ownership in numerous respects and for the benefit of public health, safety and welfare, condominium projects should be treated differently. The city therefore states its express intent to adopt regulations for the conversion of existing buildings to condominium or cooperative ownership. Condominium conversion regulations are for the protection of displaced tenants and the purchasers of condominiums and cooperatively owned buildings. The purposes of this chapter are therefore:

(a) To establish criteria for conversion of the existing multiple family rental housing to condominiums, community apartments, cooperatively owned property, and any other subdivision which is a conversion of existing rental housing, commercial, office or industrial buildings;

(b) To reduce the impact of such conversions on residents in rental housing and tenants in commercial, office and industrial buildings who may be required to relocate due to the conversion to condominium ownership by providing for procedures for notification and adequate time and assistance for such relocation;

(c) To assure that adequate information as to about the physical conditions of the structure which is offered for purchase is made available to purchasers of converted housing, commercial, office or industrial spaces;

(d) To insure that converted properties achieve a high degree of appearance, quality and safety and is consistent with the general plan and zoning goals of the city;

(e) To provide a reasonable balance of ownership and rental housing in the city and a variety of choices of tenure, type, price, and location of housing; and

(f) To maintain a supply of rental housing for elderly, handicapped, and low and moderate income persons. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003))

26.32.020 Condominium conversion permit required.

Before final approval and issuance of any building permit for any condominium conversion project, a developer, builder or other person seeking to construct such a project shall first apply for and obtain from the planning commission a condominium conversion permit. Such condominium conversion permit shall be issued only:

(a) Upon approval of the planning commission, or city council upon appeal or review, after it determines that the project has adequately met all the disclosure and upgrade requirements for conversion as required in this chapter or the planning commission has waive the requirement based on findings related to the property; and

(b) Upon approval of the planning commission, or city council upon appeal or review, after it determines that such the project conforms to all applicable zoning regulations of Title 25 of this code; and

(c) Upon the payment of fees in the amount required by Section 26.24.090 and council resolution.

Applications for condominium new construction permits shall be evaluated and processed pursuant to the procedural requirements set forth for conditional use permits in Title 25 of this code. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003))

26.32.025 Conversion prohibited for twenty or fewer units or less than 20,000 square feet if commercial office, or industrial.

No application shall be accepted, and no conversion shall be allowed, for any residential project which will produce twenty (20) or fewer condominium units or if in a commercial, office or industrial structure, containing less than twenty thousand (20,000) square feet of building area. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003))

26.32.030 Application requirements.

No application for a condominium conversion project shall be accepted for any purpose unless the application includes the following:

(a) A site plan based on a site survey with at least the following details shown to scale:

(1) The location, height, gross floor area and proposed uses for each existing structure to remain and for each proposed new structure;

(2) The location, use and type of surfacing for all open storage areas;

(3) The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas and curb cuts;

(4) The location, height and type of materials for walls or fences;

(5) The location of all landscaped areas, the type of landscaping and method of irrigation;

(6) The location and description of all recreational facilities;

(7) The location, size and number of parking spaces to be used in conjunction with each condominium unit;

(8) The location, type and size of all drainage pipes and structures;

(9) The location and type of all on-site and nearest off-site fire hydrants;

(10) A detailed lighting plan indicating location and nature of lighting and lighting fixtures on the site and structure and in the common areas;

(11) The location, type and size of all on-site and adjacent overhead utility lines; and

(12) A grading plan showing existing contours, building pad elevations and percent slope for all driveways and parking areas.

(b) Fully dimensioned elevation plans for all structures on the site, showing the architectural features and type of material of construction. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003))

26.32.040 Physical elements report.

A report on the physical elements of all structures and facilities shall also be submitted with the application. The report shall include, but not be limited to, the following:

(a) A report detailing the structural condition of all elements including structures, paving and fences of the property including, but not limited to, foundations, electrical, plumbing, utilities, walls, ceilings, windows, recreational facilities, fire protection sprinklers, alarms, mechanical equipment, roof, parking facilities and appliances, including all appliances installed in each unit. Such report shall be prepared by a registered civil or structural engineer.

Regarding each such element, the report shall state, to the best knowledge or estimate of the professional preparing the report, when such element was built, the condition of each element, when the element was replaced, the ap-

proximate date upon which the element will require replacement, the remaining useful life of the element, the cost of replacing the element, and any variation to the physical condition of the element from the current zoning and from the California Building Code as adopted by this code and in effect on the date of the report. The report shall identify any defective or unsafe elements and set forth the proposed corrective measures to be employed, including making all structures compliant with the California Building and Fire Codes as adopted by this code and in effect at the time the report is submitted to the city.

(b) A report containing acoustical test data which indicates the noise attenuation characteristics of existing party walls and ceilings. The data for such report shall include a representative sampling of units involved in the project, but in no case fewer than two (2) dwelling units, and shall be compiled by a qualified licensed acoustical engineer experienced in the field of acoustical testing and engineering. The consultant shall be selected by the community development department and shall perform the sampling in areas or units as approved or directed by the community development department.

(c) A report prepared by a licensed civil engineer evaluating the prospects for providing separate utilities for the individual units.

(d) A study of off-street parking, on-site maneuvering and parking stall access provided on site prepared by a licensed civil engineer.

(e) A report from a licensed structural pest control operator, approved by the community development department, on each structure and each unit within the structure.

(f) A report prepared by a licensed soils engineer 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) 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 to achieve full compliance with the current, applicable requirements of the California Building and Fire Codes and requirements of the zoning code.

(h) Provisions for the dedication of land or easements for street widening, public access or other public purpose, where necessary, and in accordance with established planned improvements. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003); Ord. 1810 § 6, (2007))

26.32.050 Additional submittals.

The following shall also be submitted with the application:

(a) A draft declaration of the covenants, conditions and restrictions, conforming to Department of Real Estate requirements, which would be applied on behalf of any and all owners of condominium units within the project. The draft declaration shall include, but not necessarily 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 vehicular access areas within the project; and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit, provide for on-going maintenance of landscaping and physical facilities on the site including all structures and fencing, and designation of the responsibility to the condominium association to require and enforce that all onsite parking spaces shall be used only by operating vehicles and not for storage of boats, camper shells or other personal possessions. The declaration shall include all provisions required pursuant to tenant retention and relocation requirements of Chapter 26.33 of this code.

(b) 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 two (2) years;
- (3) Monthly vacancy rate for each month during the preceding two (2) years;
- (4) Composition of existing tenant households, including household size, length of residence, age of tenants, and whether receiving federal or state rent subsidies or number of employees by tenant and rents charged for commercial, industrial, and office uses;
- (5) Proposed sales price of units;
- (6) Proposed homeowners association fee;
- (7) Proposed financing; and
- (8) Names and addresses of all tenants.

When the developer can conclusively demonstrate that some of this information is not available, this requirement may be modified by the director of community development.

(c) Signed copies from each tenant of a notice of intent to convert as required by this code, or for tenants from whom a notice of intent to convert is not submitted by applicant, proof of notice by certified mail to such tenants. At the election of the applicant, the copies of the notice of intent to convert and the proof of notice shall be submitted

after the filing of the application, provided that such copies and proof shall be submitted prior to any public hearing on the proposed conversion.

(d) Signed consent to the conversion by the tenants of at least a majority of the units.

(e) Any other information which, in the opinion of the director of community development, will assist in determining whether the proposed project will be consistent with the purposes of this code. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003); Ord. 1806 § 38, 39, (2007))

26.32.060 Acceptance of reports.

The final form of the site plan, physical elements report and other submitted documents shall be as approved by the city. The reports in their accepted form shall remain on file with the community development department for review by any interested persons. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003); Ord. 1806 § 40, (2007))

26.32.070 Copy to buyers.

A summary of all reports required by this code, in a form approved by the community development department, shall be provided to each person executing any purchase, rental or other agreement to purchase or occupy a unit in the project. Copies of the full reports shall be made available at all times at the sales office and shall be posted at various locations, as may be required by the city, at the project site. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003); Ord. 1810 § 7, (2007))

26.32.080 Physical standards for condominium conversions.

(a) Adequate Physical Conditions. To achieve the purpose of this chapter, the planning commission shall require, except as may otherwise be provided in this code, that all units to be converted to condominium conform to the Burlingame Municipal Code in effect at the time of tentative map approval, including all building and fire codes.

All violations of the city code and all required modifications of units of the project must be corrected prior to the approval of the final map, or, upon approval of the planning commission, funds shall be adequately escrowed, prior to the closing of escrow of a unit, to assure completion thereafter of such corrective work.

(b) Specific Physical Standards. In addition to any other requirements, the following specific standards and requirements shall be met:

(1) Fire Prevention—Smoke Detectors and Sprinklers. Each condominium unit whether residential, commercial, industrial or office, shall be provided with a fire sprinkler system and approved detectors of products of combustion

other than heat conforming to the California Building and Fire Code standards as adopted by this code.

(2) Sound Transmission.

(A) Shock Mounting of Mechanical Equipment. All permanent mechanical equipment, such as motors, compressors, pumps and compactors which are determined by the chief 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 chief building official.

(B) Noise Standards. The structure shall conform to all exterior and interior sound transmission standards of the California Building Code and the city's general plan. In those cases where present standards cannot reasonably be met, the planning commission may require the applicant to notify potential buyers of the noise deficiency currently existing within these units.

(3) Utility Metering.

(A) The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility. A water shut-off valve shall be provided for each unit or for each plumbing fixture. The planning commission may find at the time of approval that individual metering of gas and electricity is impractical and excessively expensive and waive those requirements. Each unit having individual meter(s) or heater(s) shall have access to its own meter(s) and heater(s) which shall not require entry through another unit.

(B) Each unit shall have its own panel, or access thereto, for all electrical circuits which serve the unit.

(4) 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 may be provided in any location approved by the planning commission, but shall not be divided into two (2) or more locations. In cases where the developer can demonstrate that this standard cannot reasonably be met, this standard may be modified by the planning commission.

(5) Laundry Facilities in Residential Projects. For residential projects, either a laundry area in each unit or common laundry areas shall be provided; provided such facilities shall consist of not less than one automatic washer and dryer for each common five (5) units or fraction thereof. In such cases where the developer can demonstrate that this standard cannot reasonably be met, this standard may be modified by the planning commission.

(6) Landscape Maintenance. All landscaping shall be restored or replanted as necessary taking into consideration shade and sun patterns on the site and shall be irrigated

and maintained to achieve a high degree of appearance and quality; front setback landscaping may be fifty (50) percent to provide for an on-site delivery area and, with a special permit, landscaping may be reduced to forty-five (45) percent of the front setback if a circular driveway is provided; if the front setback is altered to provide on-site parking for delivery vehicles or to provide a circular driveway, the front setback shall be relandscaped with the emphasis on planting large scale and more vertical plant material which will frame and screen the view of the structure from the street and turf and ground cover areas in the front setback shall be minimized.

(7) Condition of Equipment and Appliances. The developer shall provide written certification to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks, air conditioners and any other major appliances that are provided are in operable working condition as of the close of escrow. At such time as the homeowners association takes over management of the development, the developer shall provide written certification 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.

(8) Refurbishing and Restoration. All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas and additional elements as required by the community development department shall be refurbished and restored as necessary to achieve a high degree of appearance, quality and safety. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003); Ord. 1806 § 41, (2007); Ord. 1810 § 8, (2007))

26.32.085 Minimum project requirements.

Except as otherwise provided by law, in approving or conditionally approving any condominium project, the same minimum requirements shall be met for parking, access, vehicular driveways, parking areas, setbacks, landscaping and open space, and project plans and submittals as required by Section 26.30.070 of this chapter. (Ord. 1707 § 2, (2003); Ord. 1810 § 9, (2007))

26.32.090 Hearing.

At the time of the hearing on the tentative map, the planning commission shall also hold a hearing on the conversion permit. Notice of the hearing shall be given to all tenants of the proposed conversion and posted on the property. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003))

26.32.100 Hearing considerations.

At the hearing on the application for conversion to condominiums, the planning commission shall consider the following:

- (a) The opinions of the tenants of the project as to whether the proposed conversion protects their interests;
- (b) Whether or not the amount and impact of the displacement of tenants, if the conversion is approved, would be detrimental to the health, safety or general welfare of the community;
- (c) The role that the commercial, industrial, office or apartment structure plays in the existing rental market for that use and whether this role is substantially altered by the proposed conversion in the light of the tenant protection provisions in this code. Particular emphasis should be placed on the evaluation of rental structures to determine if the existing building is serving low and moderate income tenants, or special groups of tenants such as elderly or handicapped;
- (d) If applicable, whether or not lower cost home ownership opportunities will be increased by the conversion of apartments to condominiums, stock cooperatives or community apartments; and
- (e) Whether tenants will have substantial difficulty in obtaining comparably priced facilities. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003))

26.32.110 Findings.

The planning commission shall not issue a permit for condominium conversion unless the planning commission finds that:

- (a) All provisions of this chapter are met;
- (b) The proposed conversion is consistent with the city's general plan;
- (c) The proposed conversion will conform to this code and other applicable code provisions, if any, in effect at the time of tentative map approval, except as otherwise provided in this chapter or specifically excepted by the planning commission; and
- (d) The overall design and physical condition of the condominium conversion achieves a high degree of appearance, quality, and safety. (Ord. 1206 § 2 (part), (1981); Ord. 1707 § 2, (2003))

Chapter 26.33

DESIGNATED UNITS, PURCHASE AND SALE RESTRICTIONS AND TENANT PROTECTIONS

Sections:

26.33.010	Inclusion of provisions in covenants, conditions and restrictions.
26.33.020	Designated units.
26.33.030	Resale of units purchased at original sale.
26.33.040	Limit of quantity of units purchased.
26.33.050	Candidate qualifications for association membership.
26.33.060	Tenant provisions.

26.33.010 Inclusion of provisions in covenants, conditions and restrictions.

The provisions of Sections 26.33.020 to 26.33.050 shall apply to all condominium conversions and shall be contained in the declaration of covenants, conditions and restrictions. (Ord. 1206 § 3 (part), (1981))

26.33.020 Designated units.

(a) The party proposing the conversion shall designate a quantity of units totaling not less than ten (10) percent of the units in the project to be converted. The designated units shall include those units occupied by senior or handicapped tenants, as defined below, at the time the notice to convert is given. If the number of units occupied by senior or handicapped tenants at the time the notice to convert is given is larger than ten (10) percent, the initial number of designated units shall be the number of units occupied by senior or handicapped tenants at the time the notice to convert is given; provided, that when the initial number of designated units is more than ten (10) percent of the units in the project due to their occupancy by seniors or handicapped, as designated units cease to be occupied by senior or handicapped tenants, such units shall cease to be classified as designated units until their number is reduced to the required ten (10) percent.

(b) For purposes of this section, seniors shall be defined as persons sixty-two (62) years of age or older and handicapped shall be defined as persons who have a physical or mental handicap which substantially limits one or more major life activities, including caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(c) The designated units are subject to the following restrictions:

(1) Occupancy by Seniors or Handicapped. The designated units shall be occupied by persons who are seniors or handicapped. However, if a designated unit is occupied by husband and wife, only one spouse need be senior or handicapped. Also, a surviving spouse of a senior who was married to the senior and occupied a designated unit at the date of death of his or her spouse shall be allowed to occupy the designated unit regardless of the age of the surviving spouse.

(2) Lease of Designated Units. Upon conversion, any senior or handicapped tenant as of the date notice to convert was given shall have the right to enter into a lifetime lease for the unit which the senior or handicapped tenant occupies. The lease shall provide that rental increases shall not occur more frequently more than once per year and each rental increase shall be limited to a maximum of fifty (50) percent of the increase in the Consumer Price Index for the San Francisco-Oakland Metropolitan Area. (Ord. 1206 § 3 (part), (1981))

26.33.030 Resale of units purchased at original sale.

No unit purchased from the developer shall be sold within one year from the date of such purchase except for good cause amounting to a substantial change in the circumstances of the original buyer occurring after the date of the purchase. Upon any such resale or proposed resale, the developer shall have the right to repurchase the unit at a price equal to the price the unit was acquired by the original buyer plus interest and costs of purchase paid by said original buyer; the intent here being to make the original buyer whole if the developer elects such a repurchase. (Ord. 1206 § 3 (part), (1981))

26.33.040 Limit of quantity of units purchased.

No buyer shall be permitted from the developer more than five (5) percent of the total units available for sale other than units designated for seniors and handicapped persons. (Ord. 1206 § 3 (part), (1981))

26.33.050 Candidate qualifications for association membership.

If permitted by the California Department of Real Estate, the declaration of covenants, conditions and restrictions for the project shall provide that only owners who occupy a unit shall qualify as candidates for election to the board of directors of the condominium association for the project. (Ord. 1206 § 3 (part), (1981))

26.33.060 Tenant provisions.

The following shall apply to all conversions of residential units to condominiums:

(a) Notice of Intent. A notice of intent to convert shall be delivered to each tenant. The form of notice shall be on a form prepared by the community development department and shall inform tenants of all rights provided under this section. It shall be mailed or otherwise delivered within five (5) days of filing the application.

(b) Leases for Continuing Tenants. Any tenant who does not wish to purchase a unit but who wishes to continue renting and gives notice of such intention within the time set forth herein shall be offered a lease of not less than two (2) years, to take effect upon approval of the final map for the project. The lease shall provide for rent increases which shall not exceed five (5) percent per year. Base rent for such leases shall be the rent in effect at the time the conversion application is filed with the city.

(c) Tenants' Right of First Refusal. In conformity with the applicable California Government Code sections, existing tenants of any unit shall be given a nontransferable right of first refusal to purchase the unit which they occupy at a price no greater than the price offered to the general public. Notice of exercise of such right must be given as provided herein.

(d) Notice of Tenant's Election. Each tenant shall have ninety (90) days from the date of issuance by the California Department of Real Estate of the Subdivision Public Report or from the commencement of sale of the units, whichever date is later, to declare the tenant's election:

- (1) Lease. To lease a unit;
- (2) Purchase. To purchase a unit; or
- (3) Vacate. To neither lease nor purchase a unit, but instead to vacate the project.

Failure of a tenant to declare an intent within the time designated shall be deemed an election by the tenant to neither purchase nor lease any unit but instead to vacate the project.

(e) Vacating Units by Nonpurchasing or Nonleasing Tenants and Payment of Moving Expenses. Each tenant of the project at the time the application for conversion has been filed who (a) has not previously given notice of his or her intent to move, (b) elects not to purchase or lease a unit or who is silent on the notice of right to buy or lease as provided herein, and (c) is not in default of the obligations of the rental agreement or lease under which he or she occupies his or her unit, shall have not less than one year from the approval date of the conversion permit or final subdivision map, whichever is later, to find substitute housing and relocate. The developer shall notify each such tenant immediately prior to the time of final map approval of the anticipated date required to vacate the unit and when the one-year period shall commence. Evidence of delivery of such a notice to each such tenant shall be submitted

prior to approval of the final map. The developer shall pay each such tenant his or her actual moving expenses, provided that developer's obligation for a tenant's moving expenses shall not exceed four (4) times the monthly rent paid by such tenant for his or her unit prior to tentative map approval as provided herein. A tenant commencing occupancy of a unit after the application for conversion is filed shall not be entitled to moving expenses. Tenants eligible to receive the moving expenses shall receive such expenses at the time they relocate.

(f) Increase in Rents. The rent of any tenant in the project for which an application for a conversion permit has been filed shall not be increased for one year from the time of filing of the application and thereafter no more than once each year until the unit is sold or until the subdivision application is denied or withdrawn. Any rental increase during such period shall not exceed one-half of the increase in the Consumer Price Index for the San Francisco-Oakland Metropolitan Area.

(g) Termination by Tenant. Any tenant shall have the right to terminate any lease or rental agreement for a unit within the project to be converted without any penalty whatsoever after notice has been given of the intention to convert if such tenant notifies the developer in writing thirty (30) days in advance of such termination.

(h) Alternative Accommodations. The developer shall provide alternate comparable accommodations, including moving expenses, for such period the tenant is displaced or his or her unit is rendered uninhabitable by remodeling or other conversion procedures.

(i) 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. (Ord. 1206 § 3 (part), (1981); Ord. 1806 § 42, (2007))