

Chapter 17.95

CONDOMINIUM CONVERSION

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17.95.010 Title

This ordinance shall be known as the Condominium Conversion Ordinance.

17.95.020 Applicability

This ordinance shall apply to the conversion of any existing or approved multi-family residential development (occupied or unoccupied) to a condominium, community apartment project, stock cooperative, or any other subdivision which is a conversion of rental housing.

The conversion of an approved development project which has not yet been constructed shall require an amendment of any discretionary permits previously issued by the City of Sebastopol, as well as the issuance of a Final Subdivision Map, in accordance Chapter 16 of the City of Sebastopol Municipal Code.

This Section shall not apply to a limited-equity housing cooperative, as defined in §11003.4 of the California Business and Professions Code.

17.95.030 Purpose

The purpose of this ordinance is to establish criteria and procedures for the conversion of existing multi-family rental housing units to condominiums, community apartments, stock cooperatives, or any other subdivision which is a conversion of rental housing. These regulations are necessary to insure a continued balance of ownership and rental units in Sebastopol, as well as maintaining a variety of choices of tenure, type, price, and location of such housing units.

This ordinance also defines standards which will insure that the converted units meet physical standards required by applicable laws and ordinances, that purchasers of converted units are properly informed of the physical condition of the structure which is offered for purchase, and which will insure the performance of long-term maintenance responsibilities in a condominium development.

17.95.040 Definitions

- A. The terms *condominium*, *condominium project*, *community apartment*, and *stock cooperative*, shall be defined in accord with the law of the State of California as the same may from time to time be amended (California Business and Professions Code, California Civil Code). For purposes of this Ordinance, the term *condominium* wherever herein express, shall include all of the above terms.
- B. *Conversion* means a proposed change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, from residential rental realty to a condominium, as defined herein, regardless of whether substantial improvements have been made to such structures. Whenever any building permit has been issued by the City for a multifamily building, any attempt thereafter to make the project a condominium shall constitute a conversion.
- C. For the purposes of this Ordinance, a *disabled tenant* is an individual with a disability as defined in the California Fair Employment and Housing Act (California Government Code §12926).
- D. *Just cause eviction*: A landlord may lawfully evict a tenant for failing to pay rent, violating a lease agreement or refusing to renew a lease, causing damage to the premises or creating a nuisance, using the unit for an illegal purpose, or denying the landlord access to the property. A tenant may also be lawfully evicted if his/her occupancy is conditioned upon employment on the property and that employment is terminated. An owner may also require a tenant to move out if the owner wishes to use the unit for their principal residence or use the unit for the principal residence of the owner's spouse, domestic partner, child, parent, or grandparent. Landlords may also require the vacation of a unit in order to complete repairs for code compliance which repairs may not reasonably be completed with the tenant in residence. In this case, tenants have the right to move back into the unit once the repairs are completed.
- E. *Unjust eviction*: An eviction for any reason other than that defined as a *just cause eviction*.

17.95.050 Fees and Deposits

In addition to the fees charged for services provided by City staff in conjunction with the processing of a Condominium Conversion Permit, as set forth and amended by resolution of the City Council, the applicant shall deposit with the City an amount equal to \$250.00 for each unit proposed to be converted which is occupied by a tenant eligible for relocation assistance. These funds shall be used by the City of Sebastopol to cover the costs incurred in monitoring compliance with the obligations set forth under this ordinance, and in providing technical assistance for affected tenants. Nothing contained in this ordinance shall impose a duty upon the City to pay any relocation benefits to eligible tenants.

The schedule of fees charged for staff services provided in conjunction with the processing of a Condominium Conversion Permit is available from the City Planning Department.

17.95.060 Applications

Condominium conversion applications shall include the following information, and shall be submitted on a form prescribed by the City:

- A. All documentation and information required for a Tentative Subdivision Map, as described in Municipal Code Chapter 16 (Subdivisions) and on forms available from the Planning Department.
- B. Full architectural plans, including floor plans that specifically identify the square footage and number of rooms in each unit, building elevations, and a site plan specifically identifying the following:
 - (1) All common areas,
 - (2) The boundaries of each unit,
 - (3) The location of the covered storage area (as defined in 17.95.080.E.1.c) for each dwelling unit,
 - (4) Location of all driveways, parking areas, including the number and location of spaces to be designated for each unit,
 - (5) Location of all pedestrian ways,
 - (6) Location of all open storage and refuse areas,
 - (7) Location of all walls and fences,
- C. Specific information regarding the demographic characteristics of the project, its current tenants, and expected future occupants, including, but not limited to, the following:
 - (1) Rental rate history for each type of unit for previous two (2) years, and any utilities included in rent,
 - (2) Monthly vacancy rate for each month during preceding two (2) years,
 - (3) Makeup of existing tenant households, including family size, length of residence, age of tenants, and whether receiving federal or state rent subsidies,
 - (4) Names and addresses of all tenants,
 - (5) Expiration date of any current lease agreements,
 - (6) Proposed sale price of units,
 - (7) Proposed Homeowners' Association fee, and
 - (8) Financing available.
- D. Declaration of Inclusionary Unit(s). The applicant shall identify which unit(s) will be regulated for affordability in compliance with the City's Inclusionary Housing Ordinance. This declaration shall include a preliminary determination as to whether the current tenant(s) of the identified unit(s) meet the income limits for such a regulated unit.
 - (1) If the current tenant does not qualify, the developer shall provide written notification to the tenant that he/she must vacate the unit within one (1) year from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the California Business and Professions Code. Upon vacation of the unit, the developer shall insure that any future tenant meets the income limits for such a regulated unit.
 - (a) The developer must provide the Planning Department with written verification that each affected tenant has received the required notification at least 10 days' before a public report will be submitted to the Department of Real Estate.
 - (2) The developer shall offer the current tenant the right of first refusal for the purchase of any unregulated unit which becomes available during the one (1) year time frame. Such an offer shall include the same terms and conditions identified in subsection §17.95.090.B.1.e.

- E. Physical Elements Report. This is a report prepared by a registered engineer or architect, a licensed qualified general contractor, or a licensed building inspection service describing the physical elements of all structures and facilities. The report shall include, but not be limited to, the following:
- (1) A report detailing the condition of all elements of the property including paving, walkways, and site drainage, foundations, electrical systems, plumbing, heating and air conditioning units, utilities, walls, roof structure and coverings, ceilings, windows, guard rails and steps, fire safety provisions (including fire walls), recreational facilities, exterior and interior insulation (sound and thermal), ventilation weather stripping, interior and exterior lighting, mechanical equipment, parking facilities, landscaping, and any appliances to be left in the units.

For each element, the report shall state to the best knowledge or estimate of the applicant, when such element was built or installed, the condition of each element, when said element was replaced (if ever), the approximate date upon which said element may require replacement, the cost of replacing said element, and any variation of the physical condition of said element from the current zoning requirements, including but not limited to, parking, setbacks, density, and lot coverage, and from the Building Code in effect on the date that the last building permit was issued for the subject structure. The report shall identify any non-compliant, defective, or unsafe elements and shall set forth recommended corrective measures to be employed.

- (2) A report from a licensed structural pest control operator on each building and on each unit within a building.
 - (3) A report from a qualified professional indicating that the condominium units comply with the State of California Noise Insulation Standards (California Amended Code §1092), or outlining the steps that must be taken to insure compliance.
 - (4) A statement of repairs and improvements to be made by the subdivider which are necessary to refurbish and restore the project to achieve a high degree of appearance and safety.
- F. Declaration of Covenants, Conditions, and Restrictions. All condominium projects shall provide an ownership association responsible for the care and maintenance of all common areas and common improvements and any other interest common to the condominium owners. The definition of said ownership association shall be included in a Declaration of Covenants, Conditions, and Restrictions which shall be submitted to the City for review, and which shall include, but not be limited to, information regarding the following:
- (1) Conveyance of units,
 - (2) Assignment of parking,
 - (3) Maintenance schedule and agreement for all common areas, including facilities and landscaped areas, together with an estimate of any initial assessment fees anticipated for such maintenance,
 - (4) Description of a provision for maintenance of all vehicular access areas within the project,

- (5) An indication of appropriate responsibilities for maintenance of all utility lines and services for each unit,
 - (6) A plan for equitable sharing of communal water metering,
 - (7) A provision that the individual owner cannot avoid liability for his/her prorated share of the expenses for the common area by renouncing rights in the common area, and
 - (8) A provision for the City to make any repairs or engage in any maintenance necessary to abate any nuisances, public health or safety hazards, and assess the owners of the condominium units for such repair or maintenance.
- G. Written verification from each tenant of receipt of required notices defined in §17.95.090.B.
 - H. Any other information which, in the opinion of the Planning Director, will assist in determining whether the proposed project will be consistent with the purposes of this article.

17.95.070 Findings

The Planning Commission may issue a recommendation for approval, and the City Council may approve a Condominium Conversion Permit if all of the following findings are made:

- A. An environmental review has been completed and the proposed condominium project, as conditioned, is found to be in conformance with all statutes of the California Environmental Quality Act.
- B. The proposed condominium project, as conditioned, is found to be in conformance with all applicable laws, ordinances, and regulations pertaining to the State Subdivision Map Act and Municipal Code Chapter 16 (Subdivision Ordinance), and to adopted building and fire codes.
- C. The proposed condominium project, as conditioned, is found to be in conformance with the Sebastopol General Plan, especially with the objectives, policies, and programs of the Housing Element that are designed to provide affordable housing to all economic segments of the population, and any applicable Specific Plan
- D. The developer has submitted documentation substantiating that all required notices have been provided to tenants, and has agreed to provide all future notices, as required by §17.95.090.
- E. The condominium development, when evaluated as a single entity, is found to be in conformance with current Zoning Ordinance (Municipal Code Chapter 17) standards for the underlying zoning district. The building setbacks, as measured from the outside walls of the unit(s) closest to any property line, shall conform to existing setback requirements; the maximum height of any portion of any unit may not exceed current height limits; and there must be a sufficient number of parking spaces to satisfy current parking requirements. Lot coverage shall be calculated as follows: the footprint of the entire group of units/the underlying parcel size.
- F. The proposed condominium project, as conditioned, is found to comply with the State of California's Noise Insulation Standards.
- G. The proposed Declaration of Covenants, Conditions, and Restrictions is found to properly address issues defined in §17.95.060.E.

- H. The overall design of the project is visually appealing, and the physical condition of the project exhibits a high level of quality and safety.
- I. The proposed project, combined with any other approved condominium conversions, will not result in the conversion of more than the net production of new multi-family rental units in Sebastopol since the 2000 census year, or the conversion of more than 3% of the multi-family rental units in Sebastopol during the current calendar year, whichever is less.
 - (1) The net production of new multi-family rental units shall be determined by subtracting the total number of multi-family units that have been demolished from the total number of multi-family units that have received Certificates of Occupancy. This number shall be determined by the Planning Director.
 - (2) The total number of multi-family rental units shall be calculated as follows: [Total # of renter-occupied housing units (not including “1, detached” and “1, attached”) identified in Census Table QT-H10] plus [total # of multi-family housing units constructed since January 1 of the Census year]. This number shall be determined by the Planning Director.
- J. Vacancies in the project have not been intentionally increased in the 12 months prior to submission of a Condominium Conversion application, for the purpose of preparing the project for conversion through evictions without just cause.
- K. The project will not result in the unjust eviction of a senior citizen (62 years or older), disabled, or very-low income tenant, nor will it result in the unjust eviction of a single head of household living with one or more minor children.
- L. The project will not result in the loss of housing stock which is regulated for affordability to low- and very-low income households.

17.95.080 Conditions of Approval

In addition to any reasonable conditions of approval which the City Council may impose to assure compliance with applicable regulations and standards, the following conditions shall apply to all condominium conversion projects:

- A. Any structural or mechanical elements identified in the structural engineer's report as having a useful life of less than two years shall be replaced by the applicant prior to approval of a Final Subdivision Map. The Planning Commission may require that other elements be refurbished and restored in order to achieve high quality appearance and safety.
- B. The subdivider shall provide each purchaser with a copy of the Physical Elements Report and the Declaration of Covenants, Conditions and Restrictions prior to said purchaser executing any purchase agreement or other contract to purchase a unit in the project. Copies of the submittals shall be made available at all times at the sales office and shall be provided to the Homeowners' Association upon its formation.
- C. Prior to the close of escrow, the subdivider shall submit the following information to the Planning Department:
 - (1) Name, address and phone number of Homeowners' Association;
 - (2) Actual sales price of units;
 - (3) Actual Homeowners' Association fees;
 - (4) Number of prior tenants who purchased units; and,
 - (5) Number of units purchased with intent to be used as rentals.

- D. A physical inspection of each unit shall be completed by the Building Official prior to final map approval to ensure compliance with the Housing Code.
- E. The following physical standards shall be met:
- (1) The project shall conform to the Uniform Building Code in effect on the date the last building permit was issued for the subject structure or structures, except as follows:
 - (a) Each dwelling unit shall be separately metered for water, gas, and electricity. One separate water meter shall be installed for common areas.
 - (b) Sound Attenuation. Floor-to-ceiling and wall-to-wall assemblies between each condominium unit must meet sound transmission and sound impact classes of fifty (50) lab test, or forty-five (45) field test, as prescribed in the Uniform Building Code for new construction.
 - (c) Each unit shall have at least 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 Department, but shall not be divided into two or more locations.
 - (d) A laundry area shall be provided in each unit; or, if common laundry facilities are provided, such facilities shall consist of not less than one automatic washer and one dryer of equivalent capacity for every 5 units.
 - (e) 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 two years. At such time as the Homeowners' Association takes over management of the development, the developer shall provide a warranty to the Association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the Association have a useful life of at least two years. Prior to Final Map approval, the developer shall provide the City with a copy of Warranty Insurance covering equipment and appliances pursuant to this section.
 - (f) 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. The developer shall provide to the Homeowners' Association and/or purchaser a minimum two-year warranty on all physical improvements required under this section. If substantial exterior restoration is required, the design plans shall be subject to Design Review.
- F. Prior to approval of the Final Map, the developer shall provide evidence to the City that a long-term reserve fund for replacement has been established in the name of the Homeowners' Association. Such fund shall equal two (2) times the estimated monthly homeowner's assessment for each dwelling unit.

17.95.090 Noticing Requirements

- A. Public Hearing Notice

- (1) The Planning Commission and City Council shall hold public hearings on the Condominium Conversion Permit, which shall be noticed in accordance with §17.330 (Public Hearing Procedure).

B. Tenant Notification

All tenant notification requirements described herein are in accordance with California Government Code §66427.1, and shall be amended at such time as the Government Code may be amended.

(1) Current Tenants

- (a) The applicant must provide the Planning Department with written verification that each of the tenants of the proposed condominium project has received written notification of intention to convert at least 60 days prior to the filing of a tentative map.

(i) The notice shall be as follows:

To the occupant(s) of (address) _____:
The owner(s) of this building, at (address), plans to file a tentative map with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and **66452.5** of the California **Government Code**, and you have the right to appear and the right to be heard at any such hearing.

(Signature of owner or owner's agent)

(Date)

- (b) The applicant must provide the Planning Department with written verification that each tenant of the proposed condominium project has received 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request.
- (c) The applicant must provide the Planning Department with written verification that each of the tenants of the proposed condominium project has been given written notification within 10 days of approval of a final map for the proposed conversion.
- (d) The applicant must provide the Planning Department with written verification that each of the tenants of the proposed condominium project has been, or will be, given 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion.
- (e) The applicant must provide the Planning Department with written verification that each of the tenants of the proposed condominium project has been, or will be, given notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 120 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the California Business and Professions **Code**, unless the tenant gives prior written notice of his or her intention not to exercise the right.

- (f) These written notices shall be deemed satisfied if such notices comply with the legal requirements for service by mail.
- (2) Prospective Tenants
 - (a) Commencing at a date not less than 60 days prior to the filing of a tentative map for the purpose of completing a condominium conversion, the applicant shall give notice of such filing to each person applying after such date for rental of a unit in the subject property immediately prior to acceptance of any rent or deposit from the prospective tenant.
 - (i) The notice shall be as follows:
 - To the prospective occupant(s) of (address)

_____:

The owner(s) of this building, at (address), has filed or plans to file a tentative map with the City of Sebastopol to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the city and until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and **66452.5** of the **Government Code**, and you have the right to appear and the right to be heard at any such hearing.

 (Signature of owner or owner's agent)

 (Date)

I have received this notice on (date) _____.

 (Prospective tenant's signature)

17.95.100 Tenants' Rights

- A. Each tenant currently residing in a rental unit which is part of a proposed condominium conversion project shall have the following minimum rights. These rights shall be set forth in a Notice of Tenants' Rights, which the subdivider shall be responsible for providing to the affected tenants.
 - (1) After receipt of this notice, each tenant will be entitled to terminate his or her lease or rental agreement without any penalty upon notifying the subdivider in writing thirty (30) days in advance of such termination; provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the building.
 - (2) No tenant's rent will be increased from the date of issuance of this notice until at least twelve (12) months after the date subdivider files the tentative map or tentative parcel map with the city; provided, however, that this requirement shall cease upon abandonment of subdivider's efforts to convert the building.
 - (3) No significant remodeling of the interior of tenant-occupied units shall begin until at least thirty (30) days after issuance of the final subdivision public report or, if one is not issued, after the start of subdivider's sales program. (For purposes of this chapter, the start of subdivider's sales program shall be defined as the start of

tenants' one hundred and twenty (120) days first-right-of-refusal period set forth below). This does not preclude the property owner from completing normal maintenance and repair activities.

- (4) Each tenant shall have an exclusive right to contract for the purchase of his or her unit or, at the tenant's option, any other available unit in the building upon the same or more favorable terms and conditions that such units will be initially offered to the general public, such right to run for at least 120 days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program.
 - (5) Each tenant shall have a right of occupancy of at least one hundred eighty (180) days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program, prior to termination of tenancy due to conversion.
 - (6) Tenants who are sixty-two (62) years or older, disabled, or are very-low income tenants (as defined by HUD) shall be provided a lifetime lease on their unit or, at tenant's option, on any other available unit in the building. This provision shall also apply to tenants who are single heads of household with one or more minor children for as long as there are minor children living in the residence. Such leases, to commence no later than the date of issuance of the final subdivision public report, or, if one is not issued, no later than the start of subdivider's sales program, shall be subject to the following conditions:
 - (a) Tenants shall have the option of canceling the lease at any time upon thirty (30) days' written notice to the owner.
 - (b) Tenants cannot be evicted except for just cause.
 - (c) Right of occupancy shall be nontransferable.
 - (d) Except as provided hereinabove, terms and conditions of the lifetime lease shall be the same as those contained in tenant's current lease or rental agreement.
 - (7) No low- or moderate-income tenant, and no elderly tenant, shall at any time after the submission of the conversion application be evicted for the purpose of occupancy by the owner, or by occupancy by any relative of the owner. In the event the tenant does not exercise his or her right to purchase within the time period set forth in this section, the owner may transfer the unit without any price restriction to the tenant or any other person. However, in the event such transfer is to someone other than the tenant, the transfer shall be expressly made subject to the rights of the tenant to continue to occupy the unit as provided for in this section.
- B. Relocation Assistance shall be provided by the subdivider to all persons living in units on the date of approval of a condominium conversion project who choose not to purchase units in the condominium conversion project as follows:
- (1) Relocation assistance provided by a professional property management agency, at the expense of the developer, in finding a comparable replacement rental unit; such assistance shall include, at a minimum, providing rental availability reports and updating same, assisting tenant(s) in inspecting available units, and providing other personal services related to the relocation of each tenant.

- (2) Moving expenses paid for by the developer in an amount equal to three times (3x) the monthly rent paid by the tenant. The City Council may adjust the maximum moving expense allowable year to year to reflect increases in costs.
 - (3) Utility connection fees paid for by the developer in an amount equal to actual expenses up to a maximum of one hundred dollars (\$100). The City Council may adjust the amount required in this subsection year to year to reflect increases in costs.
- C. Special Relocation Assistance shall be provided to eligible tenants who are elderly, disabled, low-income, or single heads of households living with one or more minor children. This special assistance shall include the following additional measures:
- (1) The payment of last month's rent for the new housing unit, if required upon moving in;
 - (2) The transfer of all key, utility, pet, cleaning, and security deposits, minus damages, to the new housing unit or the refund of all or a part of said deposits, minus damages, to the eligible tenant, at the option of the tenant;
 - (3) The payment of the difference, if any, between the amount of all deposits and fees required upon moving in to the new housing unit and the amounts transferred for or refunded to the eligible tenant pursuant to this subsection;
 - (4) The payment of a rent subsidy for a period of one year in the amount of the difference, if any, between the rent of the new housing unit and the rent for the unit currently occupied by the eligible tenant; provided that this subsidy shall not exceed twenty-five percent (25%) of the monthly rental price of the occupied unit for each of the 12 months;
 - (5) The right of each tenant not to be unjustly evicted and not to have the rent for the unit unreasonably increased until the tenant is actually relocated to a comparable housing unit.

17.95.110 Inclusionary Housing Requirements

Any condominium conversion project which includes three (3) or more units shall be subject to the Inclusionary Housing Requirements defined in §17.240. §17.240.100.g specifies incentives that are available for developments which comply with the Inclusionary Housing Requirements.

17.95.120 Authority

The Planning Commission shall first consider a Condominium Conversion Permit request and may recommend that the City Council approve, conditionally approve, or deny a Condominium Conversion Permit application. The City Council shall take final action to approve, conditionally approve, or deny a Condominium Conversion Permit application, unless otherwise restricted by State law. Developers must comply with all applicable requirements of the City of Sebastopol Municipal Code, including but not limited to Chapter 16 (Subdivision Ordinance), Chapter 17 (Zoning Ordinance), and with the State Subdivision Map Act.

17.95.130 Revocation

A Condominium Conversion Permit granted under this Ordinance shall be subject to revocation in the manner provided by §17.250.050 if there are any violations of conditions imposed upon such Permit.

17.95.140 Severability

Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part of thereof other than the part held to be invalid.