

Chapter 235 Residential Condominium Conversions

(3334, 3657-09/04)

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235.02 Definitions

The following definitions shall apply to the provisions of this chapter except where the context indicates otherwise. General definitions are contained in Chapter 203.

- A. Applicant: The owner, developer, subdivider or authorized agent of a project.
- B. Date of approval: The date the Zoning Administrator, Planning Commission, or City Council on appeal, approves the conditional use permit and tentative subdivision or parcel map applications. However, if the project is located in appealable area of the coastal zone and includes action on a coastal development permit, Section 248.30 shall apply. (3334, 3657-9/04)
- C. Date of conversion: The date a final map for a project was approved by the City Council or parcel map for a project was approved by the City Engineer.
- D. Project: An existing apartment house, apartment complex, apartment hotel, hotel, multiple dwelling or group dwelling proposed for conversion to a condominium, community apartment, or stock cooperative. (3657-9/04)
- E. Affordable unit: A residential unit, sold to or occupied by a tenant earning up to 100 percent of Orange County's gross median income, as determined by the County of Orange, and shall include any subsequent change in such income range, adopted by the Housing Agency of Orange County. (3657-9/04)
- F. Tenant: One or more persons.

235.04 Permits Required

In addition to the applicable requirements and procedures set forth in Title 25, Subdivisions, conversions of existing rental housing to condominiums, community apartments, stock cooperatives and any other subdivision which is a conversion of existing rental housing shall be subject to the additional requirements of this chapter. Conversions shall be subject to conditional use permit approval by the Planning Commission pursuant to Chapter 241. Within the coastal zone, a coastal development permit shall also be required. (3334, 3657-9/04)

Exception for apartments and stock cooperatives with two to four units on a parcel that were sold as condominium units without approval of a conditional use permit and tentative parcel map prior to June 1, 2004: the provisions of Title 25, Subdivisions, and only Sections 235.02, 235.04, 235.06 B., 235.08 A. – C., and 235.16 herein shall apply. A conditional use permit subject to approval by the Zoning Administrator shall be required. In addition, an inspection by a City of Huntington Beach Building and Safety Inspector shall be required to verify compliance with the minimum construction standards of Section 235.08 A. and to determine if there are any obvious health and safety code violations. (3657-9/04)

Conversion of lower or moderate-income rental housing developed with federal, state or local assistance shall not be permitted. Within the coastal zone no visitor serving use, including hotel use, shall be converted to condominium, community apartment, stock cooperative, or time share. (3334)

235.06 Required Reports and Information

In addition to the conditional use permit, coastal development permit (where applicable), and tentative map applications, the applicant shall submit the reports and/or information required by this section. The cost of all reports shall be paid by the applicant. The reports shall include information on what improvements, if any, shall be accomplished by the developer and when such improvements shall be completed. All improvements cited in the reports, whether required or voluntary, shall be considered conditions of approval. (3334)

- A. Physical Elements Report: A report on the physical elements of all structures and facilities shall be submitted, containing the following:
1. A report by a California-licensed structural engineer, civil engineer or architect, describing in detail the structural condition, any evidence of soils problems, code violations, useful life, and any apparent deferred maintenance of all elements of the property, including, but not limited to, foundations, electricity, plumbing, utilities, walls, ceilings, windows, frames, recreational facilities, sound transmissions of each building, mechanical equipment, parking facilities, and drainage facilities. Such report also shall describe the condition of refuse disposal facilities; swimming pools, saunas, and fountains; stone and brickwork; fireplaces; and exterior lighting. The level of compliance with the standards listed in Section 235.08 A. shall also be described in detail. (3657-9/04)
 2. A report by a California-licensed mechanical contractor detailing the age, condition, size, and the cost of replacement for each appliance and mechanical equipment for heating and cooling. The report shall identify any defective or unsafe appliances and set forth the proposed corrective measures to be employed. (3657-9/04)

3. A report by a California-licensed structural termite and pest control specialist certifying whether or not all attached or detached structures are free of infestation and structural damage caused by pests and dry rot. The report shall describe what procedures would be necessary to eliminate infestation or damage, if present. Any infestation shall be remedied prior to sale. (3657-9/04)
 4. A report by a California-licensed painting contractor verifying the condition of the painting throughout the project, including building interior and exterior surfaces and an estimate of the remaining physical life of the paint. A statement that new paint (minimum 20 year warranty) will be applied on all building interior and exterior surfaces may take the place of such report. Such statement shall include the brand name of the paint and the exterior colors to be used. (3657-9/04)
 5. A report by a California-licensed roofing contractor verifying the condition of the roofs of all structures and an estimate of the remaining physical life of the roofs and the cost of replacement. A statement that new roof material will be applied may take the place of such report. Such statement shall include the specifications of the proposed roofing material. (3657-9/04)
- B. Covenants, conditions and restrictions: A declaration of the covenants, conditions, restrictions, and rules and regulations which would be applied on behalf of any and all owners of condominium units within the project shall be submitted. The declaration shall include, but not be limited to: the conveyance of units; the assignment of parking and storage areas; and an agreement for common area maintenance, together with an estimate of any initial assessment fees anticipated for such maintenance, and an indication of appropriate responsibilities for the maintenance of all utility lines and services for each unit. The CCR's shall be approved as to form by the City Attorney and recorded in the office of the County Recorder.
- C. Conversion Plan: Specific information concerning the demographic and financial characteristics of the project shall be submitted, including, but not limited to, the following:
1. The date of construction of all elements of the project, and the date and description of each major repair or renovation of any structure or structural element, since the date of construction. For purposes of this subsection, "major repair" shall mean any repair for which an expenditure of more than \$5,000 was made;
 2. A statement of a major use of said project since construction;
 3. A statement regarding current ownership of all improvements and the underlying land;
 4. The square footage and number of rooms in each unit;
 5. The rental rate history for each type of unit for the previous two years;
 6. The monthly vacancy rate for each month during the preceding two years;

7. A complete list of the number of tenants and tenant households in the project, including the following information:
 - a. Households with persons 62 years or older;
 - b. The family size of households, including a breakdown of households with children 5 years and younger; and between 5 and 18 years;
 - c. Households with handicapped persons;
 - d. The length of residence;
 - e. The designation of low- and moderate-income households and whether any are receiving federal or state rent subsidies.

When the subdivider can demonstrate that demographic information is not available, this requirement may be modified by the Director.

8. The proposed price of each of the units;
 9. The proposed homeowners' association budget, detailed to include fixed costs, operating costs, reserves, administration, and contingencies; and
 10. A statement of intent as to the types of financing programs to be made available, including any incentive programs for existing residents.
 11. The method to be implemented to assure availability of affordable units to tenants.
 12. Signed copies from each tenant of the notice of intent to convert, as specified in this chapter. The applicant shall submit evidence that a certified letter of notification was sent to each tenant for whom a signed copy of such notice is not submitted.
- D. Vacancy Rate Analysis: A citywide vacancy rate analysis for multiple-family rental units for the past twelve months shall be submitted. (3657-9/04)
- E. Acceptance of Reports: The final form of the physical structure elements report, Conversion Plan, and other documents shall be approved by the Planning Commission. The reports in their acceptable form shall remain on file with the Department for review by any interested person.

235.08 Condominium Conversion Standards

- A. Minimum Construction Standards: The project shall be brought into compliance with the minimum construction standards as listed below unless the Building Official approves an alternate method of construction. Prior to recordation of the final map or parcel map, applicable building permits shall be obtained, constructed and receive final inspection approval for all issues identified in this section and for any health and safety code violations. (3657-9/04)

1. For all structures built prior to February 1, 1985, draft stops shall be installed in attics to create horizontal areas that are 3,000 square feet or less. For all structures built after February 1, 1985, draft stops shall be in attics above and in line with the walls separating individual units. (3657-9/04)
 2. Each unit shall have access to the electrical branch circuits that serve the unit. (3657-9/04)
 3. Smoke detectors shall be installed and operating. All existing hard-wired units shall be in working order and the remaining detectors shall be located per currently adopted code and may be battery or hard-wired operated. (3657-9/04)
 4. Ground Fault Circuit Interrupter (GFCI) protection shall be provided where required by the currently adopted electric code. (3657-9/04)
- B. Compliance with Zoning Provisions: The project shall comply with the parking requirements of Chapter 231, and landscape improvements shall comply with Chapter 232. For apartments and stock cooperatives with two to four units on a parcel that were sold as condominium units without approval of a conditional use permit and tentative parcel map prior to June 1, 2004, a reduction in these development standards may be granted when an applicant agrees to pay an affordable housing in-lieu fee to off-set the loss of affordable rental housing stock. The fee shall be paid according to a resolution adopted by City Council. (3657-9/04)
- C. Refurbishing and Restoration: All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the Planning Commission (or Zoning Administrator for exempted units as defined in Section 235.04) shall be refurbished and restored as appropriate for a high standard of appearance, quality, and safety. (3657-9/04)
- D. Affordable Housing: Where a project consists of 3 units or more, the applicant shall agree to sell or rent at affordable prices 25 percent of the total units to low- and moderate-income households, with a minimum of 20 percent of the affordable units affordable to low-income households for a period of sixty (60) years. If the units are to be made available for purchase, the maximum sales price of units intended for low- or moderate-income households shall not exceed 2.5 times the annual median income for such households as defined by the California Health and Safety Code, Section 50093. Resale controls shall be included as a deed restriction. If the units are to be for rent, the maximum rent allowed shall keep the units within the low- or moderate-income housing stock. (3657-9/04)

235.10 Tenant Benefits and Notification

- A. Notices of Intent: Applicants for condominium conversions shall give notice of intent to convert to existing tenants and prospective tenants as required by Sections 66452.8 and 66452.9 of the California Government Code. The notice of intent shall be posted on-site in at least one location readily visible to tenants.

- B. Notices of Public Hearing and Decisions.
1. The Department shall notify the residents of the public hearing not less than 10 days prior to the proposed hearing date on the application. The notice shall include notification of the tenant's right to appear and be heard. The Department shall notify the residents of the decision of the Planning Commission within ten days and shall include a copy of all conditions imposed on the project. The list of names and addresses of the residents of each unit in the conversion project shall be current as of the day of submittal and shall be certified as such by the applicant. Service shall be by mail at the expense of the applicant.
 2. Final Map or Parcel Map Approval: The applicant shall give written notification to each tenant with 10 days of approval of the final map or parcel map. The applicant shall also provide notice of application for public report, as issued by the California State Department of Real Estate, which shall be available on request.
- C. Tenants' Discounts: Any present tenant of any unit at the time of an application for conversion shall be given a nontransferable right of first refusal to purchase the unit occupied at a discount of the price offered to the general public. The amount of the discount shall be based on the longevity of each tenant, and shall be ratified by the applicant at the time of conversion.
- D. Vacation of Units: Each non-purchasing tenant, not in default under the obligations of the rental agreement or lease under which the subject unit is occupied, shall have not less than 120 days after the date of the tentative map approval by the City or until the expiration of the tenant's lease to find substitute housing and to relocate. Tenants shall be permitted to terminate leases or tenancy with one month's notice at any time after a conversion application.
- E. No Increase in Rent: A tenant's rent shall not be increased within two months prior to a project application, nor shall the rent be increased for two years from the time of the filing of the project application or until relocation takes place. In addition, all non-purchasing tenants 62 years old or older and all non-purchasing medically-proven permanently disabled tenants shall receive a lifetime lease. Rents for such tenants shall not be increased for 2 years after the filing of the project application.
- F. Moving Expenses: The applicant shall provide moving expenses equal to three times the monthly rent to any tenant, in compliance with all the terms of the subject lease and/or financing, who relocates from the building to be converted after City approval of the use permit authorizing conversion of the units. When the tenant has given notice of his intent to move prior to City approval of the use permit, eligibility to receive moving expenses shall be forfeited. (3657-9/04)
- G. Relocation Assistance: Relocation assistance shall be provided by the applicant to non-purchasing tenants for a minimum period of four months following the tentative map approval. Information on available rental units in the same general area with costs comparable to the preconverted apartments shall be provided by the applicant on a calendar quarterly basis. Copies of the list shall be posted on-site, dated, and provided to the Department. The following non-purchasing tenants shall receive a minimum of 12 months' relocation time, measured from the tentative map approval, to find replacement housing: (3657-9/04)

1. Tenants with low or moderate incomes; and (3657-9/04)
2. Tenants with minor children in school. (3657-9/04)

H. Discrimination: No discrimination in the sale of any unit shall be based on race, color, creed, national origin, sex, or age, and a statement to this effect shall be included in the covenants, conditions, and restrictions. Projects created exclusively for the purpose of providing senior citizen housing shall be exempted from this requirement.

235.12 Effect of Proposed Conversions on the City's Low-and Moderate-Income Housing Supply (3657-9/04)

In reviewing requests for the conversion of existing apartments to condominiums, the Planning Commission (or Zoning Administrator for exempted units as defined in Section 235.04) shall consider the following: (3657-9/04)

- A. Whether displacement of tenants, if the conversion is approved, would be detrimental to the health, safety, or general welfare of the community;
- B. The role the rental units play in the existing housing rental market and whether they serve low- and moderate-income households; and
- C. The need and demand for lower-cost home ownership opportunities which are increased by the conversion of apartments to condominiums.

235.14 Bonus for Including Low- and Moderate-Income Housing

Consistent with the requirements of Section 65915.5 of the California Government Code, the City shall offer a density bonus or other incentives of equivalent financial value to condominium conversions including low- or moderate-income housing units or lower-income household units. When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons of low or moderate income, as defined in Section 50093 of the California Health and Safety Code, or 15 percent of the total units to lower-income households, as defined in Section 50079.5 of the California Health and Safety Code, the Planning Commission shall either (1) grant a 25 percent density bonus or (2) provide other incentives of equivalent financial value. Any density bonus or other incentives of equivalent financial value provided under this section shall be governed by the requirements of Section 235.08.

- A. For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments permitted and provided within the existing structure or structures proposed for conversion. "Other incentives of equivalent financial value" shall not be construed to require the City to make any cash transfer payments or other monetary compensation to the applicant, but may include the reduction or waiver of any required fees or the condominium conversion standards prescribed in Section 235.08. (3657-9/04)
- B. No applications for a density bonus shall be accepted if the apartments proposed for conversion constitute a housing development for which a density bonus was provided under the provisions of Section 230.14.

235.16 Findings

The Planning Commission (or Zoning Administrator for exempted units as defined in Section 235.04) may approve an application for a condominium conversion if it finds that the proposed conversion meets the following requirements: (3657-9/04)

- A. That all the provisions of the Subdivision Map Act, this chapter, and other applicable provisions of this ordinance are met; and
- B. That the proposed conversion is consistent with the General Plan and any applicable specific plan; and
- C. That the proposed conversion will conform to the provisions of this ordinance in effect at the time of the project approval, except as otherwise provided in this chapter; and
- D. That the overall design and physical condition of the condominium conversion achieves a high standard of appearance, quality, and safety; and
- E. That either (1) the proposed conversion will not displace a significant percentage of low- or moderate-income, permanently or totally disabled, or senior citizen tenants or delete a significant number of low- and moderate-income rental units from the City's housing stock at a time when no equivalent housing is readily available in the Huntington Beach area, or (2) the applicant agrees to pay an affordable housing in lieu fee pursuant to Section 235.08 B.; and (3657-9/04)
- F. That the dwelling units to be converted have been constructed and used as rental units for at least 5 years prior to the application for conversion; and
- G. That the applicant has not engaged in coercive, retaliatory action regarding tenants after the submittal of the first application for city review through the date of approval.
- H. That either (1) the project is not located within the coastal zone, or (2) the project is located within the coastal zone and the existing use to be converted is not a visitor serving use (including hotels). (3334)