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OFFICE OF THE CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 16.36, CONDOMINIUM CONVERSIONS, TO: (1) EXTEND THE CONVERSION RIGHTS REQUIREMENT TO TWO- TO FOUR-UNIT RESIDENTIAL BUILDINGS; (2) REQUIRE THAT A CONVERSION RIGHTS AGREEMENT BE RECORDED AT LATEST 60 DAYS AFTER THE BUILDING PERMIT FOR THE GENERATING RESIDENTIAL BUILDING IS ISSUED; (3) ENHANCE TENANT RIGHTS AND NOTICE REQUIREMENTS TO TENANTS; AND (4) MAKE OTHER MODIFICATIONS; AND TO DIRECT CITY ADMINISTRATOR OR DESIGNEE TO STUDY ALTERNATIVE METHODS OF (A) ENSURING ONE-FOR-ONE REPLACEMENT OF RENTAL UNITS IN THE CITY AS A RESULT OF CONDOMINIUM CONVERSIONS AND (B) INCREASING AFFORDABLE HOME OWNERSHIP AND REDUCING DISPLACEMENT OF RENTERS SUBJECT TO CONVERSION; AND ADOPT CEQA EXEMPTION FINDINGS

WHEREAS, the City of Oakland is experiencing a severe housing affordability crisis; and

WHEREAS, the Housing Element of the City's General Plan specifically includes policies to help prevent displacement of current Oakland residents and to limit the loss of rental housing units due to their conversion to condominiums; and

WHEREAS, the housing affordability crisis threatens the public health, safety and/or welfare of our citizenry; and

WHEREAS, 60 percent of Oakland residents are renters, many who would not be able to locate housing that is affordable within the City if displaced by rent increases (U.S. Census Bureau, ACS 2017 Table S1101); and

WHEREAS, in November 2019, the median rental price for a one-bedroom unit in Oakland was \$2,500 per month (\$30,000 per year), a 11.1 percent increase in costs over November 2018, and the median rental price for a two-bedroom unit in November 2019 was \$3,000 per month (\$36,000 per year), an 10.3 percent increase over costs in November 2018 (Zumper National Rent Report: November 2019); and

WHEREAS, Oakland's rental housing costs are the fourth highest in the nation, behind San Francisco, New York, and Boston (Zumper National Rent Report: November 2019); and

WHEREAS, in 2017, the estimated annual median household income for households that rented in Oakland was \$52,008, which would result in a household earning the annual median household income paying 58 percent of household income for a one-bedroom unit or 69 percent of household income for a two-bedroom unit (U.S. Census Bureau, ACS 2017, Table S2503); and

WHEREAS, the affordable rent for a family earning an annual income of \$52,008 is defined as only paying 30 percent of income on housing, which is approximately \$1,300 per month; and

WHEREAS, the median rent for all apartments rented in February of 2016 reached an all-time high of just over \$3,000 per month, according to research from Trulia; and

WHEREAS, 22.5 percent of Oakland's households are "housing insecure," defined as facing high housing costs, poor housing quality, unstable neighborhoods, overcrowding, or homelessness; and

WHEREAS, over 25,000 Oakland households are severely rent burdened, which is defined as spending 50 percent or more of monthly household income on rent (Oakland Consolidated Housing Needs Assessment 2015 Analysis of HUD Data, as reported in the City's March 2016 Oakland at Home report, pp. 10-11); and

WHEREAS, displacement through evictions and dramatic rent increases has a direct impact on the health, safety and/or welfare of Oakland's citizens by uprooting children from their schools, disrupting longstanding community networks that are integral to citizens' welfare, forcing low-income residents to pay unaffordable relocation costs, segregating low-income residents into less healthy, less safe and more overcrowded housing that is often further removed from vital public services and leaving residents with unhealthy levels of stress and anxiety as they attempt to cope with the threat of homelessness; and

WHEREAS, the conversion of rental housing to for-sale condominium units reduces the supply of rental housing available to Oakland residents, which drives rents still higher; and

WHEREAS, the City's current condominium conversion regulations (Oakland Municipal Code (O.M.C.) Chapter 16.36) permit the conversion of rental housing to for-sale condominium units, regardless of the number of units in the development; and

WHEREAS, the City's current condominium conversion regulations require owners to provide replacement rental units prior to the approval of an application to convert five or more rental units to for-sale condominium units, but does not require the same rental housing replacement requirements for the conversion of two-, three-, or four-unit rental housing developments except within areas designated as conversion impact areas pursuant to O.M.C. Section 16.36.060(G);; and

WHEREAS, without a rental housing replacement requirement, the conversion of two-, three-, or four-unit rental housing developments exacerbates the housing crisis by permitting an owner to convert rental units to ownership units, which may be less affordable to Oakland residents and can result in the displacement of Oakland residents from their homes and communities; and

WHEREAS, the City's current condominium conversion regulations allow conversion rights to be generated by buildings completed up to seven years prior to the proposed conversion, even though such buildings do not provide replacement for lost rental units; and

WHEREAS, the City's current condominium conversion regulations allow the units that conversion rights were sold for to still convert to condominiums seven years later causing further loss of rental housing; and

WHEREAS, loss of rental units and livable units overall occurs when building owners convert 5-unit buildings into 4 units to be able to take advantage of current condominium conversion law and convert rental units into condominiums; and

WHEREAS, the City wants to stimulate more construction of rental units by providing another avenue to finance projects that need extra funding from capitalizing on conversion rights; and

WHEREAS, the City seeks to amend the condominium conversion regulations to extend the requirement for replacement units to 2-4 unit buildings in all parts of the City, to remove the provision allowing the generation of conversion rights by newly constructed condominium units that are offered as rental units for seven or more years, to acknowledge the applicability of the Oakland Just Cause for Eviction Ordinance, enacted by voters in 2002 (O.M.C. section 8.22.300 et seq.), and corresponding regulations, and the Oakland Rent Adjustment Ordinance (O.M.C. section 8.22.010 et seq.) and corresponding regulations, and to afford greater rights and protections to existing tenants; and

WHEREAS, the City Council directs City Staff to study alternative methods of ensuring the one-for-one replacement of rental units in the City as a result of condominium conversions; and

WHEREAS, the City Council directs City Staff to report back on its findings regarding the other alternative methods to ensure one-for-one replacement of rental units;

WHEREAS, Article XI, Section 5 of the California Constitution provides that the City, as a home rule charter city, has the power to make and enforce all ordinances and regulations in respect to municipal affairs, and Article XI, Section 7, empowers the City to enact measures that protect the health, safety, and/or welfare of its residents; and

WHEREAS, the City desires to further the public health, safety and/or welfare by requiring the rental housing replacement requirement to the conversion of two-, three-, or four-unit rental housing developments; and

WHEREAS, Section 106 of the Oakland City Charter provides that the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs; and

WHEREAS, the Subdivision Map Act provides that regulation and control of the design and improvement of subdivisions are vested in the legislative bodies of local agencies, and that the City shall, by ordinance, regulate and control subdivisions that require a tentative and final or parcel map; and

WHEREAS, this Ordinance meets constitutional standards, the Subdivision Map Act, the Oakland City Charter, the O.M.C., and the City's General Plan; and

WHEREAS, after a duly noticed public meeting on December 3, 2019, the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

WHEREAS, the City Council held a duly noticed public meeting on _____, to consider the proposed amendments, and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

WHEREAS, this action is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no significant effect on the environment), 15183 (projects consistent with a community plan, general plan, or zoning), and 15301 (existing facilities), each as a separate and independent basis, and when viewed collectively provide an overall basis for CEQA clearance; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City Council.

SECTION 2. Amendment of Chapter 16.36 of the Oakland Municipal Code.
Oakland Municipal Code Chapter 16.36 is hereby amended to read as follows (additions are shown as double underline and deletions are shown as ~~strikethrough~~):

Chapter 16.36 – CONDOMINIUM CONVERSIONS

16.36.005 - Applicability.

The regulations, requirements, and provisions of this Chapter shall apply to any application for condominium conversion in the City of Oakland.

Nothing in this Chapter shall be construed as waiving, reducing, or modifying any other requirements under any other law that may provide tenants with greater rights or protections, including but not limited to the Oakland Just Cause for Eviction Ordinance, (O.M.C. section 8.22.300 et seq.), and corresponding regulations, the Oakland Rent Adjustment Ordinance (O.M.C. section 8.22.010 et seq.) and corresponding regulations, and the Oakland Tenant Protection Ordinance (O.M.C. section 8.22.600 et seq.) and corresponding regulations.

16.36.010 - Conversion-Defined Definitions.

"Advisory Agency" means a designated official or an official body charged with the duty of making investigations and reports on the design and improvement of proposed divisions of real property, the imposing of requirements or conditions thereon, or having the authority by local ordinance to approve, conditionally approve or disapprove maps. (O.M.C. section 16.04.030(B) and California Government Code Section 66415.) Pursuant to O.M.C. section 16.04.050, the Planning Commission is designated as the "Advisory Agency" with the duty of making investigations and reports on the design and improvement of proposed subdivisions requiring approval of tentative and final maps under the Subdivision Map Act. Pursuant to O.M.C. section 16.24.030, the Director of City Planning (herein, the "Planning and Building Director") is designated as the Advisory Agency for the purpose of the approval, conditional approval, or disapproval of tentative parcel maps and parcel maps.

"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 stock cooperative project ~~containing five or more dwelling units~~, a condominium project, or a Community Apartment project, regardless of whether substantial improvements have been made to such structures. Whenever an occupancy permit has been issued by the City for a multifamily building containing two or more residential units, any attempt thereafter to make the project a condominium, community apartment, or stock cooperative shall constitute a conversion. Those multifamily residential buildings of two or more units having building permits but for which no initial certificate of occupancy has ever been issued and which have never been occupied shall be deemed excluded from the definition of "conversion." This Section shall not apply to a "limited-equity housing cooperative" as defined in Section 11003.4 of the Business and Professions Code.

"Disabled" has the same meaning as in O.M.C. section 8.22.410.

"Residential Rental Realty" means a parcel containing one or more Rental Units, including a parcel containing five or more units with a recorded condominium map but without evidence of a valid public report from the Department of Real Estate (DRE) by the effective date of this Ordinance.

"Rental Unit" means any unit in any real property, regardless of zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes).

"Sales Program" means the marketing of the units to the general public.

"Subdivider" means a person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself or others.

"Tenant" has the same meaning as in O.M.C. section 8.22.340.

"Tenant Household" has the same meaning as in O.M.C. section 8.22.810.

16.36.020 - Preliminary Notice to existing tenants of intention to convert prior to filing an application for tentative map or tentative parcel map.

At least sixty (60) days prior to filing an application with the City for a tentative map or tentative parcel map for a conversion, the subdivider shall provide all tenants of the building to be converted with the following notice:

To the occupant(s) of

(Address)

The owner(s) of this building, at (address), plan(s) to file an application for a (tentative map or tentative parcel map) with the City 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 Government Code 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)

The following language shall be printed in at least 14 point bold face type: "This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises."

Accompanying this notice will be written information describing, in general, what steps and actions the subdivider and others, including governmental agencies, will or must take in order for the building to be converted. It will include information on how the tenant will be involved, informed, and assessed at each step in the process and on what rights the tenant has, whether mandated by state or local government or whether provided voluntarily by the subdivider. It will also include the date on which the subdivider will most likely file the tentative map or tentative parcel map as well as the approximate date on which the subdivider expects the final subdivision public report, if any, to be issued, or if no subdivision public report is required the approximate date on which the subdivider expects to start the sales program.

Also accompanying this notice will be the Notice of Tenant Rights and the subdivider's Preliminary Tenant Assistance Program, both as set forth in O.M.C. section 16.36.050, and the information concerning tenant notifications as set forth in O.M.C. section 16.36.040.

All persons who subsequently become tenants shall also be provided with the above notices.

For each application, all documents referred to in this section shall be approved by the Director of City Planning Planning and Building Director as to form, correctness, and completeness.

Notice shall be given by posting in a conspicuous place on the premises of the subject property involved in the application. The written Notice to tenants required by this section shall also be given by mail, and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to Government Code Section 66452.18 and California Code of Civil Procedure Section 1013.

16.36.030 - Notice to prospective tenants of intention to convert.

Commencing at a date not less than sixty (60) days prior to the filing of a tentative map or tentative parcel map application, the subdivider shall give notice of such filing, in the form shown below, to each person applying after such date for rental of a unit in the building to be converted. This notice must be given to the prospective tenant prior to the acceptance of any rent or deposit from said prospective tenant and prior to the execution of any rental agreement.

The notice shall read as follows:

To the prospective occupant(s) of

(Address)

The owner(s) of this building, at (address), has filed or plans to file an application for a (tentative map or tentative parcel map) with the City 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 of Oakland and, if five (5) or more units are involved, until after a public report is issued by the Bureau 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 Government Code Sections 66451.3 and 66452.5, and you have the right to appear and the right to be heard at any such hearing.

If the building is converted to condominiums, you may not qualify for relocation assistance under condominium conversion law. You should still verify whether you may be eligible for other protections such as those under the Just Cause for Eviction Ordinance.

(signature of owner or owner's agent)

(date)

I have received this notice on:

(date)

(prospective tenant's signature)

Prospective tenants shall also receive all accompanying documents described in O.M.C. section 16.36.020 and all documents set forth in O.M.C. sections 16.36.040 and 16.36.050.

If the subdivider fails to give timely notice pursuant to this Section, he or she shall pay to each prospective ~~T~~tenant (1) who becomes a ~~T~~tenant and who was entitled to such notice; and (2) who does not purchase his or her unit pursuant to O.M.C. section 16.36.040~~32~~ and vacates, an amount equal to the amounts set forth below:

- A. Tenants who vacate for Code Compliance repairs shall be paid relocation payments pursuant to O.M.C. chapter 15.60. Tenants who vacate due to owner or relative move-in shall be paid relocation payments pursuant to OMC section 8.22.850. Tenants who vacate due to an Ellis Act eviction shall be paid relocation payments pursuant to O.M.C. section 8.22.450.
- B. Tenants who vacate for any other reason, unless evicted for Tenant fault, shall be paid relocation payments in amounts pursuant to OMC Section 8.22.820.

i. If the tenant voluntarily vacates the premises, the Owner shall make the payment directly to an eligible Tenant Household no later than ten (10) days before the expected vacation date. If less than ten (10) days' advance notice of vacation is given, then the payment by the Owner to the Tenant Household is due no later than the actual time of vacation.

ii. If the owner is requiring the tenant to vacate, the owner must pay the Tenant Household half of the relocation payment when the termination notice is given to the household and the remaining half when the tenant vacates the unit provided that the tenant agrees, in writing, not to contest an unlawful detainer based on the notice to terminate tenancy for the owner or relative moving in to the tenant's rental unit. If the tenant does not so agree, then the entirety of the relocation payment is not due unless the owner prevails in the unlawful detainer. If the owner prevails in the unlawful detainer, the relocation payment must be paid to the tenant prior to the owner seeking a writ of possession for the tenant to vacate the unit.

C. For the purpose of this paragraph, the Tenant is not evicted for Tenant fault if (1) the Tenant vacates within one hundred twenty (120) days after the effective date of a rent increase notice of more than ten (10) percent; and (2) the rent increase notice is issued within one (1) year after the issuance of the final subdivision public report on the conversion of a building with five (5) or more units or the start of the sales program in a building of four (4) units or less.

A. ~~A Tenant who is also eligible for relocation under the City of Oakland's code compliance relocation program (O.M.C. Chapter 15.60), must elect for either relocation payments under this Section or O.M.C. Chapter 15.60 and may not receive relocation payments under both.~~

B. ~~A Tenant who is also eligible for relocation assistance under Section 16.36.050 (Preliminary Tenant Assistance Program) must elect for either relocation payments under this Section or Section 16.36.050, and may not receive relocation payments under both.~~

16.36.031 - Notice to existing tenants of intention to convert.

The subdivider shall give written notice of the intent to convert at least one hundred eighty (180) days prior to the effective date of a notice of termination of tenancy, but not before the City has approved tentative parcel map for the conversion, to each tenant of the subject property in the form outlined below. The following language shall be printed in at least 14 point bold face type: "This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises."

To the occupant(s) of

(Address)

The owner(s) of this building, at (address), plan(s) to convert this building to a (condominium, community apartment or stock cooperative project). This is a notice of the owner's intention to convert the building to a (condominium, community apartment or stock cooperative project).

A tentative parcel map to convert the building to a (condominium, community apartment or stock cooperative project) was approved by the City on _____ . If the City approves a final parcel map, you may be required to vacate the premises, but that cannot happen for at least 180 days from the date this notice was served upon you.

Any future notice given to you to terminate your tenancy because of the conversion cannot be effective for at least 180 days from the date this notice was served upon you. This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises. If your unit is covered by the Just Cause for Eviction Ordinance, you may not have to move at all except for specific reasons such as if you did not pay your rent, violated the terms of your rental agreement, or if the owner is performing repairs or moving into the unit.

(signature of owner or owner's agent)

(date)

Tenants shall also receive all accompanying documents described in O.M.C. section 16.36.020 and all documents set forth in O.M.C. sections 16.36.040 and 16.36.050.

Notice shall be given by posting in a conspicuous place on the premises of the subject property involved in the application. Notice shall also be given by mail, and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to Government Code Section 66452.18 and California Code of Civil Procedure Section 1013.

16.36.032 - Notice to existing tenants of right to contract for purchase.

- A. For conversions involving five (5) or more units, the subdivider shall give written notice within five (5) days after receipt of the subdivision public report to each tenant of his or her exclusive right for at least ninety (90) days after issuance of the subdivision public report to contract for the purchase of his or her respective unit or, alternatively, a non-exclusive right to contract for purchase of any other available unit in the building. The notice must be in the form outlined below.

To the occupant(s) of

(Address)

The owner(s) of this building, at (address), has (have) received the final subdivision report on the proposed conversion of this building to a (condominium, community apartment or stock cooperative project). Commencing on the date of issuance of the subdivision public report, you have the exclusive right for at least 90 days to contract for the purchase of your rental unit upon the same or more favorable terms that such units are initially offered to the general public, less a discount of at least ten percent (10%). You also have a non-exclusive right to contract for purchase of any other available unit in the building on the same or more favorable terms that such unit is initially offered to the general public, less a discount of at least ten percent (10%). If more than one tenant with a non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

If you choose not to exercise your exclusive right to purchase your unit during the 90-day period, you also have the exclusive right to match any offer the owner accepts for your rental unit after the sale has opened to the public, less a discount of at least ten percent (10%). You also have a non-exclusive right to match an offer for any other available unit in the building on the same terms, less a discount of at least ten percent (10%). If more than one tenant with a non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

The owner(s) shall notify the tenant of owner's intent to accept a buyer's offer, and terms of offer, within five (5) calendar days of owner(s) receiving offer. Thereafter, the tenant has fourteen (14) calendar days to match buyer's offer less a discount of at least ten percent (10%) by entering into a purchase and sale agreement with owner(s).

(signature of owner or owner's agent)

(date)

- B. If the conversion involves four units or less, in which case no public report is issued, the subdivider shall give, 17 days before the start of the subdivider's sales program, a written notice to each tenant of the tenant's exclusive right for at least ninety (90) days after the start of the sales program to contract for the purchase of his or her respective unit, or any other available unit in the building, in the form outlined below.

To the occupant(s) of

(Address)

A tentative parcel map to convert the building to a (condominium, community apartment or stock cooperative project) was approved by the City on _____ . Commencing on _____ , the date the sales program begins, you have the exclusive right for at least 90 days to contract for the purchase of your rental unit upon the same or more favorable terms that such units are initially offered to the general public, less a discount of at least ten percent (10%). You also have a non-exclusive right to contract for purchase of any other available unit in the building on the same or more favorable terms that such units are initially offered to the general public, less a discount of at least ten percent (10%). If more than one tenant with non-exclusive right to purchase wish to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

If you choose not to exercise your exclusive right to purchase during the 90-day period, you also have the exclusive right to match any offer the owner accepts for your rental unit after the sale has opened to the public, less a discount of at least ten percent (10%). You also have a non-exclusive right to match an offer for any other available unit in the building on the same terms, less a discount of at least ten percent (10%). If more than one tenant with non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

The owner(s) shall notify the tenant of owner's intent to accept a buyer's offer, and terms of offer, within five (5) calendar days of owner(s) receiving offer. Thereafter, the tenant has fourteen (14) calendar days to match buyer's offer less a discount of at least ten percent (10%) by entering into a purchase and sale agreement with owner(s).

(signature of owner or owner's agent)

(date)

- C. Notice shall be given by posting in a conspicuous place on the premises of the subject property involved in the application. Notice shall also be given by mail, and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to Government Code Section 66452.20 and California Code of Civil Procedure 1013.

16.36.040 - Additional tenant notifications.

Each tenant shall be given notices containing the information as set forth below:

- A. The eCity shall provide tenants with the following notices:

1. Each tenant will be given at least ~~ten~~ seventeen (17) days' prior written notice of the date, time and place of any public hearing held by the Advisory Agency on the tentative map or tentative parcel map. Such notice shall also advise tenants of their right to appear and be heard.
2. ~~Each tenant will receive A~~ copy of any eCity report or recommendation concerning the tentative map or tentative parcel map will be available on the City of Oakland website at least ~~three~~ five (5) days prior to any meeting for which the map appears on the agenda.
3. Each tenant will be given at least ~~three~~ seventeen (17) days' prior written notice of the date, time and place of a hearing held to consider an appeal from an action of the Advisory Agency. Such notice shall also advise tenants of their right to appear and be heard.

Subdivider shall provide the eCity with a sufficient number of stamped envelopes addressed to tenants to allow the City to carry out the above responsibilities, such number to be determined by the ~~Director of City Planning~~ Planning and Building Director. Subdivider shall also provide the City with tenant names and addresses, including unit numbers, of all units, including those that are currently occupied, those where the tenant or subdivider has issued a notice of termination of tenancy, those that have been rented but are not yet occupied, and those that are currently vacant.

B. In addition to the preliminary notice to existing tenants prior to filing an application for a tentative map or tentative parcel map as set forth in O.M.C. section 16.36.020, the notice to existing tenants of intention to convert as set forth in O.M.C. section 16.36.031, and the notice to prospective tenants of intention to convert as set forth in O.M.C. section 16.36.030, the subdivider shall also be responsible for the following:

1. Each tenant will be given at least five days' prior written notice of the date, time and place of any meeting held on the tentative map or tentative parcel map other than those set forth in Subsections (A)(1) and (A)(3) of this section.
2. Each tenant will be notified individually and in writing of any action taken on the tentative map or tentative parcel map by the Advisory Agency, City Planning Commission, or City Council ~~within two~~ five (5) days of such action being taken.
3. Each tenant will be given written notification within ten days of approval of a final map or a parcel map.
4. Each tenant in buildings with five (5) or more units will be given at least ten days' prior written notice that an application for a subdivision public report will be submitted to the California Department of Real Estate. Such notice shall also state that tenants will be notified within five days of subdivider's receipt of the final subdivision public report and that copies will be available upon request; it will also state subdivider's

estimate of when the report will be issued and that the period for each tenant's right to purchase begins with the issuance of the final subdivision public report.

5. Each tenant in buildings with five or more units will be given written notification within five (5) days of subdivider's receipt of the final subdivision public report in accordance with O.M.C. section 16.36.110. If the conversion involves four or less units, in which case no public report is issued, each tenant will be given ~~ten~~ seventeen (17) days' prior written notice of the start of subdivider's sales program.
- C. The subdivider's recordation of the final map shall not constitute City approval of any work that was done without a permit or any other violation of any applicable code or ordinance, or preclude the City from requiring correction of violations identified subsequent to recordation of a final map, and shall not preclude the City from requiring additional corrective action if additional noncomplying conditions are discovered subsequent to the recordation of final map.

The ~~Director of City Planning~~ City Planning Director shall be given a copy of all of the above notices at the same time as the tenants receive them. The written notices required by this section shall be deemed satisfied if they comply with the legal requirements for service by mail.

16.36.045 – General Requirements for Notices

- A. All notices required in this Chapter O.M.C. shall be in at least 12 point type, and must include in bold face, the following language: For information about this notice please contact the Planning and Building Department at (provide current phone number and email address and physical location contact information for Planning and Building Department).
- B. If a rental agreement was or is being negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean, all required written notices regarding conversion shall be issued in that language and in English.
- C. The Planning and Building Director shall be given a copy of all notices to tenants at the same time as the tenants receive them with accompanying proof of service complying with the legal requirements for service by mail pursuant to California Code of Civil Procedure Section 1013.

16.36.050 - Tenant rights and the Preliminary Tenant Assistance Program.

- A. With regard to any conversion as defined in O.M.C. section 16.36.010, each tenant shall have the following minimum rights which shall be set forth in the Notice of Tenant Rights in a form prescribed by the City. Absence of such a form does not release landlords of noticing requirements.
 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 or approval of the tentative map or tentative parcel map by the City, whichever occurs later. At the end of such period, and until one hundred eighty (180) days after the issuance of the final subdivision public report or start of the sales program, the subdivider may increase tenants' rent no more than once each year and in an amount that does not exceed the increase in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland Metropolitan Area: All Items (Bay Area CPI), unless the unit is covered by other rent increase restrictions such as the restriction in O.M.C. section 16.36.050(A)(6) or the Rent Adjustment Ordinance.
3. No 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' ninety (90) days first-right-of-refusal period set forth below.)
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 ninety (90) days from the issuance of the final subdivision public report or, if one is not issued, a non-exclusive right to purchase any other available unit in the building upon the same or more favorable terms and conditions that such units are initially offered to the general public, less a discount of at least ten percent (10%), with such right to run for at least ninety (90) days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program. If a tenant chooses not to exercise his or her exclusive right to purchase during the initial 90-day period, he or she shall also have the exclusive right to match any offer the owner accepts for his or her rental unit after the sale has opened to the public, less a discount of at least ten percent (10%). The tenant shall also have a non-exclusive right to match an offer for any other available unit in the building on the same terms, less a discount of at least ten percent (10%). If more than one tenant with a non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.~~

The owner(s) (subdivider(s)) shall notify the tenant of owner's intent to accept a buyer's offer, and terms of offer, within five (5) calendar days of owner(s) receiving offer. Thereafter, the tenant has fourteen (14) calendar days to match buyer's offer less a discount of at least ten percent (10%) by entering into a purchase and sale agreement with owner(s).

5. Each tenant shall have a right of occupancy of at least one hundred eighty (180) days from the date the notice to existing tenants of intention to convert, as set forth in O.M.C. section 16.36.020, is served on the tenant; 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 sale program; or until the expiration of Tenant's lease, whichever is longer, prior to termination of tenancy due to conversion.

6. Tenants in units containing a tenant who (1) is sixty-two (62) years or older prior to approval of the tentative map or tentative parcel map or (2) is disabled or becomes disabled at any time before final approval of the tentative map or tentative parcel map, shall be provided a lifetime lease on their unit or, at tenant's option, on any other available unit in the building.
 - a. The subdivider must provide a written offer for a lifetime lease to the eligible tenants in the building and record such offer against the building's title.

 - b. At the time the Tenant(s) accepts the lifetime lease offer, and even if such acceptance occurs after map approval, a binding agreement between the Tenant(s) and the subdivider or owner shall be executed and recorded against the building's title.

 - c. In addition, the subdivider must agree to maintain the unit as a rental unit on the same rental terms for at least 20 years from the time the lifetime lease is executed even if the tenant with the lifetime lease vacates the property or passes away.

 - d. A binding agreement between the City and the subdivider concerning the requirements of this subsection shall be recorded against the building's title. In recognition of the lifetime lease and 20 year rental requirement, the subdivider shall receive a one-for-one reduction in conversion rights as part of the binding agreement.

 - e. Such leases, to commence no later than the date of issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sale program, shall be subject to the following conditions:
 - i. Tenants shall have the option of cancelling the lease at any time upon thirty (30) days' written notice to the owner.

 - ii. Tenants cannot be evicted except for tenant fault (e.g. non-payment of rent, breach of the rental agreement).

 - iii. The term of the lease shall expire only upon the death or demise of the last such Tenant residing in the unit or at such time as the Tenant(s) in the

unit voluntarily vacates the unit after giving notice of such intent to cancel the lease. Right of occupancy shall be nontransferable, except that Tenants shall have the right to a live-in aide. The live-in aide is not eligible to remain in the unit once the Tenant is no longer living in the unit.

- iv. The first year's base monthly rent for the unit shall be set at no more than the rent existing on the unit one year prior to the filing of the application for a tentative map or tentative parcel map, increased by no more than seventy-five (75) percent of the percentage increase in the residential rent component of the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland Metropolitan Area: All Items (Bay Area CPI) from the date one year prior to the filing of the tentative map or tentative parcel map to the effective date of the lifetime lease.
- v. Subsequent rent adjustments, if any, may be made no sooner than one year from the effective date of the lifetime lease, shall be limited to no more than one per year, and the percentage increase in the Bay Area CPI for the most recent twelve (12) month period.
- vi. There shall be no decrease in dwelling unit maintenance or other services historically provided to such units and such Tenants.
- vii. The lease shall include the following language:
Tenant agrees that this Lease shall be subject and subordinate at all times to (i) all ground leases or underlying leases that may now exist or hereafter be executed affecting the Real Property or any portion thereof; (ii) the lien of any mortgage, deed of trust, assignment of rents and leases or other security instrument (and any advances thereunder) that may now exist or hereafter be executed in any amount for which the Real Property or any portion thereof, any ground leases or underlying leases or Landlord's interest or estate therein, is specified as security; and (iii) all modifications, renewals, supplements, consolidations and replacements thereof, provided in all cases the mortgagees or beneficiaries named in mortgages or deeds of trust hereafter executed or the assignee of any assignment of rents and leases hereafter executed shall recognize the interest and not disturb the possession, use and enjoyment of Tenant under this Lease, and, in the event of foreclosure or default, the lease will continue in full force and effect by the conditions imposed on each final parcel map or final map pursuant to O.M.C. Section 8.22.050, as long as Tenant is not in default under the terms and conditions of this Lease. Tenant agrees to execute and deliver, upon demand by Landlord and in the form requested by Landlord, any additional reasonable documents evidencing the priority or subordination of this Lease with respect to any such ground leases, underlying leases, mortgages, deeds of trust, assignment of rents and leases or other security instruments. Subject to the foregoing, Tenant

agrees that Tenant shall be bound by, and required to comply with, the provisions of any assignment of rents and leases with respect to the building.

~~f. Notwithstanding the above, no rent increase shall exceed any rent increase guidelines adopted by the city.~~

viii. 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. Nothing in the Notice of Tenant Rights shall be construed as waiving, reducing or modifying any greater rights a tenant may have under the Oakland Just Cause for Eviction Ordinance (O.M.C. section 8.22.300 et seq.) and corresponding regulations, the Oakland Rent Adjustment Ordinance (O.M.C. section 8.22.010 et seq.) and corresponding regulations, and the Oakland Tenant Protection Ordinance (O.M.C. section 8.22.600 et seq.) and corresponding regulations.

The Preliminary Tenant Assistance Program, as set forth in Subsection B of this Section, shall make provision for the above minimum rights on the terms set forth above or on terms more favorable to the tenant.

B. The subdivider's Preliminary Tenant Assistance Program (PTAP) shall consist of at least two parts: efforts to minimize tenant displacement, and tenant relocation assistance.

1. In the first part of the PTAP, subdivider shall describe those incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion. Subdivider shall also include actions and procedures to enable hard-to-relocate tenants to remain as tenants.

2. The second part of the PTAP shall include all relocation and moving assistance and information to be provided to each tenant and all steps the subdivider will take to ensure the successful relocation of each tenant in the event that conversion takes place and the tenant chooses not to purchase a unit or remain as a tenant.

a. Tenants who resided in the unit prior to the filing of the tentative map or tentative parcel map and who vacate for Code Compliance repairs shall be paid relocation payments at no less than the amounts pursuant to O.M.C. chapter 15.60. Tenants who resided in the unit prior to the filing of the tentative map or tentative parcel map application and who vacate due to owner or relative move-in or an Ellis Act eviction shall be paid relocation payments pursuant to O.M.C. section 8.22.850 or O.M.C. section 8.22.450.

b. Tenants who resided in the unit prior to the filing of the tentative map or tentative parcel map and vacate for any other reason, unless evicted for Tenant fault, shall be paid relocation payments at not less than the amounts pursuant to O.M.C. Section 8.22.820.

- i. If the tenant voluntarily vacates the premises, the Owner shall make the payment directly to an eligible Tenant Household no later than thirty (30) days before the expected vacation date. If less than thirty (30) days' advance notice of vacation is given, then the payment by the Owner to the Tenant Household is due no later than the actual time of vacation.
- ii. If the owner is requiring the tenant to vacate, the owner must pay the Tenant Household half of the relocation payment when the termination notice is given to the household and the remaining half when the tenant vacates the unit provided that the tenant agrees, in writing, not to contest an unlawful detainer based on the notice to terminate tenancy for the owner or relative moving in to the tenant's rental unit. If the tenant does not so agree, then the entirety of the relocation payment is not due unless the owner prevails in the unlawful detainer. If the owner prevails in the unlawful detainer, the relocation payment must be paid to the tenant prior to the owner seeking a writ of possession for the tenant to vacate the unit.
- c. For the purpose of this paragraph, the Tenant is not evicted for Tenant fault if (1) the Tenant vacates within one hundred twenty (120) days after the effective date of a rent increase notice of more than ten (10) percent; and (2) the rent increase notice is issued within one (1) year after the issuance of the final subdivision public report on the conversion of a building with five (5) or more units or the start of the sales program in a building of four (4) units or less.
- ~~d. A Tenant who is also eligible for relocation assistance under Section 16.36.030 must elect for either relocation payments under this Section or Section 16.36.030, and may not receive relocation payments under both.~~

In both parts of the PTAP, subdivider shall give particular attention to specific steps that will be taken to assist the elderly, disabled, and other tenants who may encounter difficulty in finding new quarters.

16.36.060 Tentative map and tentative parcel map requirements for conversions.

In addition to other matters required in this title Chapter, the subdivider shall submit to the Advisory Agency, along with the tentative map or tentative parcel map of a conversion, the Preliminary Tenant Assistance Program and one copy of each of the notices and other documents to be provided to all tenants and prospective tenants pursuant to Sections 16.36.020 through 16.36.050. Subdivider shall also certify on the tentative map or tentative parcel map the following:

- A. That all tenants have received all documents set forth in Sections 16.36.020, and 16.36.031-040; and that all prospective new tenants have received and will receive said documents, along with the notice set forth in O.M.C. section 16.36.030;

- B. That all tenants and ~~Director of City Planning~~Planning and Building Director will receive all notices as set forth in Subsection B of O.M.C. section 16.36.040 and that they will receive all information as required in O.M.C. section 16.36.080.
- C. That all Tenants who qualify for a lifetime lease pursuant to O.M.C. section 16.36.050.A.6 have been given a written offer to enter into a lifetime lease. Such written offer for a lifetime lease shall be executed by the subdivider and recorded prior to the time of final map or final parcel map approval.
- D. That a binding agreement between the City and the subdivider concerning the lifetime lease and twenty year rental requirements have been recorded against the property's title.
- E. That no unit in a building approved for conversion shall be offered for sale unless the property to be subdivided is in compliance with all current state and local laws and that any violations have been or will be corrected prior to recordation of the final map or parcel map. The state and local laws include, but are not limited to, the City's Zoning Ordinance, and all laws that govern the structural and fire safety of buildings and the structure and safety of their major systems, such as a building's plumbing, electrical and mechanical systems as set forth in California Health and Safety Code Section 17920.3.
- F. That a report to the City will be provided on the building's major systems, for review and approval by the Planning and Building Director, prior to recordation of the final map or parcel map.

The ~~Director of City Planning~~Planning and Building Director may require other information to be filed with the tentative map or tentative parcel map which, in the Planning and Building Director's opinion, will assist in determining whether the project is consistent with the purposes set forth in O.M.C. section 16.04.010 or will assist in making any of the findings as set forth in O.M.C. section 16.36.030. Any such determination by the ~~Director of City Planning~~Planning and Building Director may be appealed to the City Planning Commission in the manner set forth in Section 17.132.020 of the zoning regulations of the City.

The ~~Director of City Planning~~Planning and Building Director may waive the tenant notification requirements contained in O.M.C. sections 16.36.020, 16.36.031, and 16.36.040 where the building proposed for conversion is not tenant-occupied at the time of tentative map or tentative parcel map application. Where the building proposed for conversion is not tenant-occupied and the subdivider declares under penalty of perjury that the building is not tenant-occupied and no unit within the building will be rented prior to final or parcel map approval, the ~~Director of City Planning~~Planning and Building Director may waive the tenant assistance requirements set forth in O.M.C. sections 16.36.050 and 16.36.080.

16.36.070 - Action on the tentative map or tentative parcel map – conversion rights.

Action by the Advisory Agency shall be governed, in addition to that set forth in O.M.C. section 16.08.030, by the following:

A. Requirements for map approvals.

1. The Advisory Agency shall deny approval ~~may only approve~~ a tentative map for the conversion of five or more housing units or a tentative parcel map if unless it finds that every converted unit will be replaced with a rental unit added to the City's housing supply. Such replacement, if made in accordance with provisions of this Chapter, shall be found to avoid the negative impact the conversion would otherwise have had on the City's rental housing supply. Accordingly, a conversion of five or more housing units shall only be approved, subject to meeting all other requirements prescribed by State and City, if the subdivider agrees that, prior to final map approval or final parcel map approval, subdivider will, in a manner acceptable to the Advisory Agency, demonstrate that subdivider owns "conversion rights" equal in number to the units proposed for conversion. "Conversion rights" are generated by projects which add housing units to the City's rental supply, and one conversion right is equivalent to one housing unit within such a project. Conversion rights may be generated by project(s) either undertaken by the subdivider or by others from whom subdivider has obtained or acquired such "rights" in a legally binding manner by a recorded document to be approved by the Advisory Agency. No conversion rights shall be generated by project(s) or specific parts of project(s) which: (a) are intended to become the property of the Oakland Housing Authority, (b) receive financial assistance from the City or the Oakland Redevelopment Successor Agency, (c) are located on property that was purchased or leased from a public or quasi-public agency, or (d) are developed as condominium units or otherwise may be sold as individual units. Subdivider shall provide the Advisory Agency with information concerning the intended location and type of rental units that will generate the conversion rights of which subdivider intends to demonstrate ownership. Any newly approved market rate unit that otherwise qualifies may be used to generate conversion rights.
2. The Advisory Agency shall deny approval of a tentative map or tentative parcel map for a conversion if any tenant was evicted pursuant to O.M.C. 8.22.360.A.8-11 in the last five years prior to the date of the application, including if tenant was given written or oral notice that the owner intended to evict the tenant under any of these O.M.C. sections and the tenant left voluntarily or after an agreement with the owner, or if the subdivider or predecessor causes or attempts to cause a tenant to vacate by violating the Tenant Protection Ordinance (O.M.C. 8.22.600, et. seq.). The Advisory Agency may adopt regulations to implement this provision.
3. The Advisory Agency shall deny approval of a tentative map or tentative parcel map for a conversion if the conversion is from a building in which the owners

have a fully executed written agreement within five (5) years of the application date in which the owners each have an exclusive right of occupancy to individual units in the building to the exclusion of the owners of the other units (Tenancy-in-Common).

- B. Project(s) generating conversion rights may involve new rental construction (including accessory dwelling units), increasing the number of units in an existing residential rental building, or converting a nonresidential building to residential rental units; however, to generate conversion rights, each added unit must be reasonably comparable in number of bedrooms and amenities to each unit being converted and must not already be deed restricted from converting to a condominium.
- C. Conversion rights may also be generated by bringing back into the supply, through major rehabilitation, a residential rental building that has been continuously vacant and declared substandard or a public nuisance pursuant to O.M.C. section 15.080.350 et seq. for at least one three (3) years prior to commencement of work on the rehabilitation project. ~~The conversion rights so generated can be applied to the conversion of the building being rehabilitated.~~ Anyone attempting to generate conversion rights by rehabilitating a vacant residential rental building must demonstrate to the satisfaction of the Director of City Planning Planning and Building Director that the building was indeed vacant and declared substandard or a public nuisance for at least one three (3) years, that the work did indeed involve major rehabilitation, and that the building was not vacated for the purpose of generating conversion rights. For purposes of this Chapter, rehabilitation shall be deemed "major" if it the cost of construction equals or exceeds fifty percent (50%) twenty (20) percent of the total value of the building after rehabilitation of the average basic cost for new construction using tables issued by the Chief Building Inspector applicable to the time period when the substantial rehabilitation was completed.
- Anyone who, through major rehabilitation, converts a residential rental building that has been continuously vacant and declared substandard or a public nuisance for at least three (3) years, shall not be required to provide conversion rights for the conversion of that building.
- D. ~~Conversion rights may also be generated by the construction of a condominium, community apartment, or stock cooperative project if the owner of such project, for which final map approval has been obtained, makes an agreement in writing with the city that for a period of not less than seven years, the owner will offer the units in the project to the public as conventional rental units subject to a lease that shall contain no commitment for later purchase of the unit, the form of said lease to be approved by the Director of City Planning. Subsequent sale of any unit prior to the expiration of the seven-year rental period shall be subject to the same terms and conditions stated in said written agreement.~~
- D. Conversion rights may be generated only from residential buildings with Rental Units where the conversion rights agreement transferring the conversion rights is entered into and recorded: (1) after the generating residential building receives planning entitlements and (2) no later than sixty (60) days after the building permit for the

generating residential building has been issued. The Bureau of Planning shall clearly set forth this requirement in the Condominium Conversion application. The Bureau of Planning shall require through Conditions of Approval that a final conversion rights agreement that secures conversion rights is executed and recorded against the generating property and Certificate of Occupancy issued for the generating residential building Rental Units prior to final map approval for the condominium conversion project. If the approval involves a project with five or more units having a recorded condominium map, but without evidence of a valid public report from the Department of Real Estate (DRE), then the subdivider shall be exempt from the requirement to enter into an agreement securing the conversion rights.

- E. ~~Tentative map approval of the conversion must take place no later than seven years from the issuance of a certificate of occupancy on the project(s) generating the conversion rights. Project(s) for which building permits were issued prior to March 18, 1980 cannot generate conversion rights.~~ F. No units in the building approved for conversion shall be sold until a certificate of occupancy has been issued by the City Building Official on the project(s) generating the conversion rights. For buildings of five or more units, subdivider shall request the California Department of Real Estate in writing to not issue the final subdivision public report until said Department has received written notification by the subdivider to issue said report. Said notification must include written approval from the Director of City Planning Planning and Building Director, which approval shall not be given until all necessary certificates of occupancy have been issued.
- F. ~~G.~~ Notwithstanding the above, the Advisory Agency shall deny approval of a tentative map or tentative parcel map if it finds that the conversion is proposed to take place in the "conversion impact area," an area of the city whose rental housing supply has been negatively impacted by previous conversions. The conversion impact area shall contain two sections: the primary section consisting of Census Tracts 4034, 4035.01, 4035.02, 4036, 4037.01, 4037.02, 4039, 4040, and 4041.01, and 4041.02; and the secondary section consisting of Census Tracts 4038, 4042, 4043, 4052, and 4053 4053.01 and 4053.02.
- G. ~~H.~~ A conversion which would otherwise be denied due to its location within the conversion impact area shall be approved, subject to meeting all other requirements prescribed by State and City, if the subdivider agrees to replace (using the conversion rights method described above) each converted unit with a rental unit according to the following: For conversions to take place in the primary section of the conversion impact area, conversion rights must be generated within the primary section; for conversions to take place in the secondary section, conversion rights must be generated within the conversion impact area.
- H. ~~I.~~ Notwithstanding other provisions of this section, the Advisory Agency shall deny approval of a tentative or final map or a tentative or final parcel map if it finds that the subdivider vacated units in the building proposed for conversion in order to avoid providing payments and other benefits to tenants as required by O.M.C. section 16.36.050 or described in the tenant assistance program. It shall also deny approval

if it finds that the subdivider's preliminary tenant assistance program, as set forth in O.M.C. section 16.36.050, or any submission required by O.M.C. sections 16.36.020, 16.36.031, 16.36.040 or 16.36.060 is unacceptable or otherwise inconsistent with the purpose of this title as it concerns the City's housing goals and policies. It shall also deny approval if it finds that the subdivider has falsely claimed that the building proposed for conversion is vacant.

- I. A property owner of a two (2) to four (4) unit property is eligible for a one-time exemption from the conversion rights requirements of this Section for one of the units if the property owner: (1) has lived in the building for at least ten (10) years, (2) can demonstrate their uninterrupted residency, (3) has an annual income of 80 percent or less of Area Median Income ("AMI"), and (4) has never previously converted their property to a condominium.
- J. A subdivider is eligible for a one-for-one reduction from the conversion rights requirements of this Section for each unit:
1. That is occupied and purchased by a current tenant who has continuously occupied a rental unit in the building for at least three (3) years preceding the date of the notice of intention to convert;
 2. That upon conversion will be restricted to occupancy by and affordable to lower income households, as defined in Health and Safety Code Section 50079.5, at an affordable housing cost, as defined in Health and Safety Code Section 50052.5, in perpetuity. Such restrictions shall be evidenced by recorded covenants or restrictions running with the land; or
 3. In which a non-purchasing tenant who receives the benefit of a lifetime lease pursuant to O.M.C. section 16.36.050.A.6 and the unit is subject a deed restriction consistent with O.M.C. Section 16.36.050.A.6.c.

16.36.080 - Final tenant assistance program.

If the tentative map or tentative parcel map is approved, the subdivider shall prepare a Final Tenant Assistance Program (FTAP) in conformity with the Preliminary Tenant Assistance Program (PTAP), and any conditions of approval relating to the tenant assistance program. At a minimum, the FTAP shall provide tenants with all of the rights set forth in O.M.C. section 16.36.050. The FTAP shall be reviewed and, if it conforms to the PTAP and the requirements of this Chapter, may be approved by the Planning and Building Director. Within two days of receiving such approval, subdivider shall distribute a copy of the FTAP to each tenant and to the Director of City Planning-Planning and Building Director. If the Advisory Agency approves the map, the FTAP shall be accompanied by a written notice advising tenants of the action of the Advisory Agency and informing them of their right to appeal the decision to the City Council, if a tentative map is involved, or to the City Planning Commission, if a tentative parcel map is involved, within fifteen (15) ten (10) days of the date of the decision. Any party seeking to appeal a decision to the City Council or City Planning Commission shall pay the appeal fee as specified in the City's Master Fee Schedule.

16.36.090 – Information to be filed with final maps and parcel maps.

In addition to other matters required in this title Chapter, the following shall be filed with the final map or parcel map:

- A. A copy of the Final Tenant Assistance Program (FTAP) as described in O.M.C. section 16.36.080;
- B. A copy of the notice of subdivision public report or notice of start of sales program as set forth in O.M.C. section 16.36.110;
- C. One copy each of the following documents more fully described in Subsections A, B and C of O.M.C. section 16.36.120: written notice to be given to prospective buyers; property report; structural pest report; and report describing the building's utilities, storage space, and laundry facilities;
- D. For tentative map or tentative parcel map approvals involving conversion rights, evidence, in the manner specified by the Advisory Agency as set forth in O.M.C. section 16.36.070, that the subdivider owns conversion rights equal in number to the units to be converted.

No final map or parcel map shall be approved until the above requirements have been met.

16.36.100 - Information on final maps and parcel maps.

In addition to other matters required in this title, the information on the final map or parcel map shall show, under the owner's certificate, the following:

- A. For final maps only, a statement pursuant to Section 66427.1 of the State of California Subdivision Map Act;
- B. A statement certifying that copies of the property report, structural pest report, and utilities/storage space/laundry facilities report, all more fully described in O.M.C. section 16.36.120, were submitted along with subdivider's request for a certificate of occupancy inspection; and, if a final map, that these documents plus a copy of the notice to be given to prospective buyers, more fully described in O.M.C. section 16.36.120, have been or shall be filed with the California Department of Real Estate in the subdivider's application for public report; and, if a final map, that the subdivider has requested or shall request that the above-mentioned notice to be given to prospective buyers be included in the subdivision public report;
- C. A statement certifying that the Director of City Planning ~~Director~~ and each tenant in the building to be converted has received or will receive a notice of final map or parcel map approval and, for buildings with five or more units, a notice of subdivision public report application as set forth in Subsections (B)(3) and (B)(4) and (B)(5) of O.M.C. section 16.36.040;

- D. A statement certifying that the ~~Director of City Planning~~Planning and Building Director and each tenant in the building to be converted will receive the notice of subdivision public report or notice of start of sales program as set forth in O.M.C. section 16.36.110;
- E. For tentative map or tentative parcel map approvals involving conversion rights, a statement certifying, in conformity with O.M.C. section 16.36.070, that no unit in the conversion will be offered for sale until a certificate of occupancy ~~will have been~~ is issued on those project(s) generating conversion rights;
- F. For tentative map approvals involving conversion rights, a statement certifying, in conformity with O.M.C. section 16.36.070, that the California Department of Real Estate has been or will be requested not to issue the final subdivision public report until so notified in writing by the subdivider, such request to include written approval of the ~~Director of City Planning~~Planning and Building Director prior to the issuance of said report;
- G. For five or more unit buildings, a statement certifying, in conformity with section 16.36.130, that no unit in the conversion will be offered for sale until the unit conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor;
- G. H. A statement certifying that informational reports will be submitted to the ~~Director of City Planning~~Planning and Building Director as required by and set forth in O.M.C. section 16.36.140.

No final map or parcel map shall be approved until the above requirements have been met.

16.36.110 - Notice of subdivision public report or notice of start of sales program.

Within five days of receipt of the final subdivision public report described in Section 11018 of the California Business and Professions Code, the subdivider of a building with five or more units shall notify, in writing, the ~~Director of City Planning~~Planning and Building Director and all tenants in the building to be converted of the date of issuance of said report. For buildings with four or less units, the subdivider shall give the ~~Director of City Planning~~Planning and Building Director and all tenants in the building to be converted ~~ten-seventeen (17)~~ seventeen (17) days' prior written notice of the start of the sales program. Said notices, to be accompanied by the subdivider's final tenant assistance program as set forth in O.M.C. section 16.36.080, shall also state the following:

- A. That, for buildings of five or more units, a copy of the final subdivision public report is available to each tenant upon request;
- B. That no remodeling of the interior of tenant-occupied units shall begin until at least thirty (30) days after issuance of said report or start of the sales program;

- C. That each tenant has an exclusive right to contract for the purchase of the tenant's respective unit, or, at the tenant's option, any other available unit in the building upon the same terms and conditions that such units will be initially offered to the general public, less a discount of at least ten percent (10%), or upon terms more favorable to the tenant as indicated if so provided for in the subdivider's final tenant assistance program attached to this notice, such right to run for a period of not less than ninety (90) days from the date of issuance of said report or the start of the sales program;
- D. That each tenant has a right of occupancy of at least one hundred eighty (180) days from the date the notice to existing tenants of intention to convert, as set forth in O.M.C. section 16.36.031, is served on the tenant; one hundred eighty (180) days from the issuance of said report the final subdivision public report or, if one is not issued, or from the start of subdivider's sale program; or until the expiration of tenant's lease, or as specified in the subdivider's final tenant assistance program attached to this notice, whichever is longer, prior to termination of tenancy due to conversion, and that upon termination of tenancy, each tenant shall be provided with relocation assistance as set forth in O.M.C. section 16.36.050. This provision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including but not limited to the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1, and 1941.2 of the California Civil Code;
- E. That ~~the subdivider will provide for~~ each tenant not ~~wishing~~ desiring to purchase a unit ~~or, for tenants eligible for a lifetime lease, not desiring to accept a lifetime lease,~~ the subdivider will provide such tenant with up-to-date information of available apartments of comparable size, price, and location within the city and will take other steps as indicated in the subdivider's final tenant assistance program attached to this notice.

The written notices required by this section shall be deemed satisfied if they comply with the legal requirements for service by mail pursuant to California Code of Civil Procedure Section 1013.

16.36.120 - Information to be given to prospective buyers.

All prospective buyers of converted units shall be given written notices, stating the existence of a seventy-two (72) hour period following an agreement to purchase, during which period a prospective buyer may withdraw from the agreement to purchase without penalty or cost. The written notice shall also state the availability of the following:

- A. A property report prepared and signed by an appropriately licensed contractor or engineer. Said report shall:
1. Describe the condition and useful life of the roof and foundations, and the mechanical, electrical, plumbing, and structural elements of all existing structures on the property; and
 2. Estimate future property maintenance costs.

- B. A structural pest report prepared and signed by a licensed pest control operator, conforming to California Business and Professions Code, Section 8516;
- C. A report describing the building with regard to whether utilities are separately metered; location of water and gas shutoff valves; availability of protected storage space in addition to closet space ordinarily contained within a unit; parking spaces; and laundry facilities, if any;
- D. For five or more unit buildings, the applicant shall provide a statement, signed by a person experienced in the field of acoustical testing and engineering, certifying that the converted unit conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor.
- E. A copy of the notice of rights provided to tenants occupying the unit to be purchased, as provided for in O.M.C. section 16.36.110, and copies of any agreements for continuing occupancy entered into pursuant to O.M.C. section 16.36.050.A.5.
- F. Information regarding the number of units in the property for which tenants have been provided the right to a lifetime lease pursuant to O.M.C. section 16.36.160.A.6.

16.36.130 - Noise insulation standards.

For five or more unit buildings, the applicant shall confirm that nNo unit in a building approved for conversion shall be offered for sale unless it conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor

16.36.140 - Submission of informational reports.

Within thirty (30) days of the issuance of the final subdivision public report on the conversion of a building with five or more units or the start of the sales program in a building of four units or less, subdivider shall submit to the ~~Director of City Planning~~ Planning and Building Director informational reports pertaining to tenants of the conversion displaced since the filing of the tentative map or tentative parcel map, and to buyers of the units being converted. The information, as required, shall be submitted on forms to be provided by the Bureau of Planning ~~City Planning Department~~. These informational reports shall be submitted annually, and they shall continue to be submitted until all units in the conversion have been sold.

16.36.150 - Technical Bulletins and Administrative Regulations.

The City Administrator or designee is responsible for the administration of this Chapter, and is authorized to develop and require compliance with one or more technical bulletins and/or administrative regulations containing interpretations, clarifications, forms, and commentary to facilitate implementation of any requirements set forth in this Chapter.

SECTION 3. Tenancy-in-Common, Tenant Purchase, and Alternative or Supplemental Method to Conversion Rights System that Ensures One-For-One Replacement of Rental Units. The City Council directs City Administrator or designee to (a) study, to the extent feasible, the number of rental units converted to tenancies-in-common in the city, (b) track the number of units purchased by existing tenants pursuant to the provisions of this ordinance, and (c) study alternative methods of ensuring the replacement, on a one-for-one basis, of rental units in the City lost as a result of condominium conversions. The City Administrator may also study options to increase affordable home ownership and reduce displacement of renters subject to conversion. The City Council further directs City Staff to report back on its findings regarding this section.

SECTION 4. California Environmental Quality Act. The City Council independently finds and determines that this action is exempt from CEQA pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no significant effect on the environment), 15183 (projects consistent with a community plan, general plan, or zoning), and 15301 (existing facilities), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

SECTION 5. Authority. This Ordinance is enacted to serve the public interest and is necessary to protect the health, safety, and/or welfare of the citizens of Oakland, and is enacted pursuant to Article XI, Sections 5 and 7 of the California Constitution, the Subdivision Map Act, Section 106 of the Oakland City Charter and the City's home rule powers, and the City's General Plan.

SECTION 6. Severability. The provisions of this Ordinance are severable, and if any article, section, subsection, sentence, clause, phrase, paragraph, provisions, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of remaining portions of the Ordinance which shall remain in full force and effect.

SECTION 7. Ordinance Effective Date. Pursuant to Section 216 of the Charter of the City of Oakland, this Ordinance shall become effective immediately on final adoption if it receives six (6) or more affirmative votes on final adoption. Otherwise, it shall become effective upon the seventh day after final adoption.

SECTION 8. Applicability to Existing Projects. This Ordinance shall apply to all existing projects that have not obtained a vested right, as defined by California law, as of the effective date of this Ordinance. Notwithstanding the sentence immediately above, if a subdivider has received their tentative parcel map prior to the effective date of this Ordinance and is converting a two- to four-unit building, the subdivider shall not be required to secure conversion rights pursuant to this chapter provided the subdivider obtains their approved final map within 24 months of the effective date of this Ordinance.

SECTION 9. Conflict. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

SECTION 10. Notice of Exemption. The Environmental Review Officer, or designee, is directed to cause to be filed a Notice of Exemption with the appropriate agencies.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council of the City of
Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 16.36, CONDOMINIUM CONVERSIONS, TO: (1) EXTEND THE CONVERSION RIGHTS REQUIREMENT TO TWO- TO FOUR-UNIT RESIDENTIAL BUILDINGS; (2) REQUIRE THAT A CONVERSION RIGHTS AGREEMENT BE RECORDED AT LATEST 60 DAYS AFTER THE BUILDING PERMIT FOR THE GENERATING RESIDENTIAL BUILDING IS ISSUED; (3) ENHANCE TENANT RIGHTS AND NOTICE REQUIREMENTS TO TENANTS; AND (4) MAKE OTHER MODIFICATIONS; AND TO DIRECT CITY ADMINISTRATOR OR DESIGNEE TO STUDY ALTERNATIVE METHODS OF (A) ENSURING ONE-FOR-ONE REPLACEMENT OF RENTAL UNITS IN THE CITY AS A RESULT OF CONDOMINIUM CONVERSIONS AND (B) INCREASING AFFORDABLE HOME OWNERSHIP AND REDUCING DISPLACEMENT OF RENTERS SUBJECT TO CONVERSION; AND ADOPT CEQA EXEMPTION FINDINGS

This ordinance amends the City of Oakland's existing condominium conversion regulations to require replacement rental housing for the conversion of two or more housing units, to remove the provision allowing the generation of conversion rights when the units are offered as rental units for seven or more years, to acknowledge the applicability of the Oakland Just Cause for Eviction Ordinance (O.M.C. section 8.22.300 et seq.), and corresponding regulations, and the Oakland Rent Adjustment Ordinance (O.M.C. section 8.22.010 et seq.) and corresponding regulations, and to afford greater rights and protections to existing tenants. This ordinance also directs the City Administrator or her designee to study alternative methods of: (a) ensuring one-for-one replacement of rental units in the City as a result of condominium conversions and (b) increasing affordable home ownership and reducing displacement of renters subject to conversions.