

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 DEC 30 AM 8:44

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: January 13, 2004

RE: AN ORDINANCE TO AMEND CHAPTER 16.36 OF THE SUBDIVISION ORDINANCE (CONDOMINIUM CONVERSIONS) OF THE OAKLAND MUNICIPAL CODE TO (1) ELIMINATE THE CONDOMINIUM CONVERSION IMPACT AREA, (2) ALLOW CONVERSIONS OF EXISTING BUILDINGS WITHOUT THE REQUIREMENT TO PROVIDE REPLACEMENT UNITS, RETAIN THE REQUIREMENTS TO (3) PROVIDE LIFETIME LEASES TO TENANTS SIXTY-TWO (62) YEARS OR OLDER, (4) PROVIDE FIRST RIGHT OF REFUSAL TO EXISTING TENANTS TO CONTRACT FOR THE PURCHASE OF THEIR UNIT, (5) EXPANDS THE RIGHT TO FIRST RIGHT TO PURCHASE TO TENANTS EVICTED PURSUANT TO THE ELLIS ACT ORDINANCE, AND 6) CODIFY THE REQUIREMENTS FOR HEALTH AND SAFETY CODE UPGRADES AND NOISE INSULATION STANDARDS

SUMMARY

Chapter 16.36 of the Subdivision Ordinance, Condominium Conversions, sets forth the regulations by which a multifamily residential rental building can convert the rental units to individual units that can be owner occupied. Current law places some limits on the ability to convert in order to preserve existing rental housing and protect tenants from displacement, through certain restrictions, including limiting the number of conversions in certain geographic areas with a high percentage of rental stock. This ordinance was originally adopted in the early 1980's when such conversions were rampant throughout major metropolitan areas in California due to the skyrocketing housing prices. The condominium market has since stabilized.

Staff recommends that the existing Condominium Conversion Ordinance be amended and updated to ease the process for conversion of existing apartment buildings into condominium units, provide additional options for homeownership opportunities for Oakland residents, and clarify the standards for physical improvements and inspections required for such conversions. The proposed amendments include eliminating the condominium conversion impact area and removing restrictions that require the rental property owner to obtain a "conversion right" (based on one unit of newly constructed or rehabilitated rental housing) for each unit to be converted. Staff also recommends retaining the following provisions of the original ordinance:

- The requirement to provide lifetime leases to tenants sixty-two (62) years or older,

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- Provide first right of refusal to existing and former tenants (evicted pursuant to the Ellis Act Ordinance) to contract for the purchase of their unit,
- The requirement for the converter to prepare a tenant assistance plan,
- The requirement to delay remodeling of tenant occupied units

In addition, staff recommends adding to the ordinance

- Pre-codification of requirements for health and safety code upgrades and noise insulation standards.

The proposed amendments would continue some protections for tenants, while increasing homeownership opportunities and associated benefits, and ease the condominium conversion requirements throughout the City. However, because of changes in state law since Oakland's condominium conversion ordinance was first adopted, a landlord may try to avoid tenant protections by removing rental units from the market pursuant to the Ellis Act Ordinance (O.M.C. 8.22.400) prior to commencing the process to convert the rental property to condominiums. These pre-emptive State requirements operate regardless of whether the City Council chooses to amend the Condominium Conversion provisions. For this reason, the amendments give the right to purchase to former tenants whose tenancy was terminated under the Ellis Act Ordinance, and retains language disallowing a condominium conversion when the subdivider evicted tenants to avoid giving them rights under the condominium conversion law.

FISCAL IMPACT

There is no direct fiscal impact associated with this report. Applicants submitting maps to the Planning Division for condominium conversions will pay fees that exist at that time. If the ordinance results in additional conversions, revenue from real estate transfer tax and property taxes could increase. It is not possible to assess the magnitude or likelihood of such an increase.

BACKGROUND

In the existing regulations, a conversion is defined as a change in the type of ownership from residential rental realty to a stock cooperative, a condominium, or community apartment project. It applies to buildings for which a certificate of occupancy has been issued for a multi-family building. Under the ordinance, all existing rental properties would fall under this category, or a newly constructed residential building that has received an occupancy permit but has not applied for or received a subdivision approval to sell the units separately. Most new residential projects

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automatically submit a subdivision map as part of land use approvals in order to preserve this right in the future.

The Oakland City Council adopted the current ordinance pertaining to condominium conversions in 1981 as Ordinance 10080 C.M.S. and amended it in 1982 and 1984 by Ordinances 10203 and 10475, respectively. The ordinance required, among other things, that each conversion be replaced with the construction of a new rental unit. A significant number of multi-family residential buildings were being converted to condominiums during this time and the ordinance was enacted in an effort to maintain the City's rental housing supply and protect renters who would be displaced by the conversions. Since that time, large new condominium buildings have been and are being constructed, allowing many new homeowners to enter the housing market, while new affordable and market rate rental developments have been built in many areas of the City and more are planned. Conversions of existing rental units, by and large, have significantly slowed from the rate of the early 1980's. While it is unclear whether conversion requirements have been a disincentive, it is apparent that the condominium market has also changed as supplies of such housing have increased.

Ordinance 10080 C.M.S defines the Condominium Conversion Impact Area as an area of the City where the rental housing supply has been negatively impacted by previous conversions. The Conversion Impact Area contains two sections: the Primary Section consisting of census tracts 4034, 4035, 4036, 4037, 4039, 4040, and 4041; and the Secondary Section consisting of census tracts 4038, 4042, 4043, 4052, and 4053 (primarily around the Adams Point area, see attached map). Section 16.36.070 of the Subdivision Regulations states that any conversion of buildings of four or more units throughout the City, or any number of units within the conversion impact area, must be alleviated by the construction of new rental units, conversion of a nonresidential building to residential rental units, or by major renovation of a vacant residential building. The subdivider must demonstrate that one rental unit has been added to the city's housing supply for every unit converted to a condominium.

At present, tenants in small buildings (under 20 units) in the impact area that want to become homeowners and do not want to move out of their residence, are denied the opportunity to convert to condominiums without replacement housing being provided by the new owners. Attempts to convert a residential building within the impact area to condominium ownership since the condominium conversion regulations were adopted in 1981 have been unsuccessful. Several conversions have occurred outside the impact area of both buildings with four or fewer units and buildings with five or more units. Replacement units have been obtained outside the impact area when they could be drawn from anywhere in the City.

This rental unit replacement requirement has proven to be undue and unreasonable given the actual replacement costs of rental housing. Recently, both building owners who want to convert and potential homeowners who want to purchase units have approached the City about the existing

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replacement provisions. All have expressed frustration with the practical inability to meet the current requirements.

Existing Regulations

The existing requirements for conversion consist of two components as outlined below:

- Tenant notification and assistance and tenant rights
- Replacement rental units, called "conversion rights."

1. Tenant rights

Both existing state law and Oakland law provide notice requirements for existing tenants and give other rights to existing tenants.

State Law Requirements for Existing Tenants. State law contains the following notice requirements and rights for existing tenants that must be met before a final subdivision map for a condominium conversion can be approved by a city. California Government Code § 66427.1.

- a. At least 60 days prior to the landlord's filing of a tentative map, each tenant must receive written notice of the landlord's intent to convert.
- b. Each tenant must receive 10 days notice that an application for a public report has or will be filed with the Department of Real Estate.
- c. Each tenant must be notified of the final subdivision map approval 10 days in advance.
- d. Tenants must get 180 days' written notice prior to termination of tenancy due to the conversion.
- e. Tenants get first right of refusal to purchase at the same or more favorable terms as general public. The right of refusal runs 90 days from issuance of the Department of Real Estate public report.

Oakland Requirements for Existing Tenants. Current Oakland law includes the following rights in addition to those provided by state law.

 a. Notification: A subdivider must provide existing and prospective tenants (persons applying for rental of a unit in the building to be converted after the date not less than sixty (60) days prior to the filing of a tentative map or tentative parcel map) with notice of intent to convert, notice of tenant rights, and a copy of the "Preliminary Tenant Assistance Program."

 b. Tenant rights: Tenants rights include the right to terminate the lease with 30 days notice without penalty; no eviction, except for just cause; no rent increase for 12 months after filing of the tentative map; delaying remodeling to tenant occupied units; the exclusive right to

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purchase his or her unit (required by state law) is extended to include any available unit in the building.

c. Senior citizen tenants: Tenants 62 years or older have the right to a lifetime lease, with certain restrictions on rent increases, tied to the existing rent price and the residential rent component of the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland Metropolitan Area (Bay Area Rental 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.

d. Tenant assistance program: Subdivider must develop a tenant assistance program including incentives to increase the ability of tenants to become owners; actions to enable hard-to-relocate tenants to remain as tenants; and provide relocation assistance.

2. Replacement Rental Units, or “Conversion Rights”

A Conversion of any number of units currently requires “conversion rights” (replacement rental units) equal in number to the units proposed for conversion.

In the “primary impact area,” replacement rental units must be generated within the primary impact area (Census Tracts 4034, 4035, 4036, 4037, 4039, 4040, and 4041). In the “secondary” impact area (Census Tracts 4038, 4042, 4043, 4052, and 4053), units can be generated from either the primary or secondary area. In the remainder of the city, conversion of five or more units requires “conversion rights” equal to those proposed for conversion. (See attached map)

Conversion rights may be generated by:

- new rental construction
- increasing the number of units in an existing residential building
- converting a non-residential building to residential rental units
- major rehabilitation of a residential rental building that has been vacant for at least one year (rehabilitation is considered “major” if it equals at least 20% of the total value of building after rehabilitation)
- construction of a condominium, community apartment, or stock cooperative project if the owner of such project “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 units.”

Time limit: Approval of the tentative map for the conversion must take place no later than seven years from the issuance of a certificate of occupancy on the projects generating the conversion rights.

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KEY ISSUES AND IMPACTS

1. The regulations in the existing ordinance are too restrictive citywide and severely limits conversion of apartment buildings to condominiums. Conversions have been non-existent in the "impact area" – defined as an area of the City whose rental housing supply has been affected by previous conversions - where even more stringent regulations apply. It is so difficult to find replacement units that no one has successfully done it within the impact area since the regulation went into effect in 1981, particularly because few replacement units have been developed in the impact areas. Replacements units have been generated outside the impact area and conversions have occurred on both buildings with four or fewer units and very few in buildings with five or more. In these cases, replacement units were obtained from the entire city.

2. New affordable homeownership options are needed. Alameda County is known as a high-cost area for housing. Due to changes in the housing market and the increase of home prices, many first time homeowners find it difficult to purchase housing for their income range in the area. Homeownership is a goal in the General Plan and has been a stated priority of the Mayor and Council for several years. Condominiums generally provide a more affordable option than detached, single-family homes and will allow an increase in homeownership in older multi-unit dwellings. Condominiums are a particularly good option for households first entering the ownership market because they tend to be priced lower than single-family homes.

3. While there is a need to avoid displacing renters and a need to protect the rental housing stock, the number of occupied rental units in the City has increased since 1991 by approximately 3,900. Existing regulations are a "no net loss" approach to the City's supply of rental housing. The supply of rental housing has increased citywide. According to the May 2003 Draft Housing Element, the percent of owner occupied units decreased from 43% to 41% from 1990 to 2000, while the percent of occupied units for renters increased from 57% to 59%.

The need for affordable rental housing remains a high priority and adoption of a policy to ease condominium conversions could reduce the supply. However, the need for affordable homeownership is an equally important policy. Given the City's efforts to produce additional affordable rental housing as well as the increased supply of new rental housing, staff believes that the potential loss of a minor number of rental units does not constitute a substantial impact.

4. Several subsequent changes in state and local laws have restricted the City's ability to regulate condominium conversions. Since Oakland first adopted condominium conversions restrictions, the State legislature enacted the Ellis Act (1986) (withdrawing rental units from the market (Ca. Gov. Code 7060, et seq.)) and the Costa-Hawkins Rental Housing Act (1995) (mandating exemption of single-family and condominium units and vacancy decontrol (Cal. Civil Code § 1954.50, et seq.)). In 2003, Oakland voters passed the Just Cause for Eviction

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Ordinance (Measure EE (O.M.C. 8.22.300)). Together these three laws significantly restrict the City's ability to attach certain conditions to condominium conversions.

Rent Adjustment Ordinance.

Oakland initially adopted the Rent Adjustment Ordinance (formerly the Rent Arbitration Ordinance) in 1980. The Rent Ordinance covered rented condominiums.

Costa-Hawkins Rental Housing Act.

In 1995, the state legislature enacted Costa-Hawkins. The importance of Costa-Hawkins to condominium conversions is that it phased out rent regulations on single-family rental units, including condominiums. The effect of exempting condominiums was to encourage landlords in cities that have rent regulation to convert rental properties to condominiums in order to gain exemption from rent regulation. As a result of the increasing number of landlords seeking to convert their rental properties to condominiums in 2001, the state legislature tempered the rent regulation exemption for condominiums by requiring the subdividing landlord to sell the units to a third party before they are exempt. This change in Costa-Hawkins was to prevent landlords from simply converting a building to condominiums, continuing to rent the units, and gain an exemption from rent control. A subdivider can convert the units and rent them, but now must sell the condominiumized units before they are exempted from rent regulation. Nonetheless, the Costa-Hawkins condominium rent control exemption provides an additional incentive for converting rental properties to condominiums. Although Costa-Hawkins phased out rent regulation on condominiums, it did not exempt condominiums from locally enacted just cause eviction restrictions.

Measure EE – Just Cause Eviction Ordinance

Oakland voters passed Measure EE, Just Cause for Eviction law, November 5, 2002. The ordinance protects tenants against arbitrary, unreasonable, discriminatory, or retaliatory evictions. Under the ordinance, landlords must show good cause for eviction by proving that specific conditions exist. Since these regulations now apply, developers converting to condominiums can no longer evict tenants by using a "no cause" eviction notice pursuant to California Civil Code § 1946 to vacate condominium units for sale to third parties. The only methods available would be to remove the building from the housing stock pursuant to the Ellis Act, or to wait for the purchasers of the condominium to evict existing tenants under their rights as an owner-occupant.

The Ellis Act

The Ellis Act was passed by the California legislature July 1, 1986. The act permits a landlord to evict tenants in order to go out of the rental business at any time, and limits the power of localities to regulate the process by which it may be exercised. In September 2003, the City Council enacted an ordinance pursuant to the Ellis Act regulating evictions where the landlord withdraws the units from the rental market (O.M.C. 8.22.400). The ordinance provides for extended eviction notices—120 days for most tenants, and one year for elderly and disabled tenants. The ordinance also gives

evicted tenants specific rights should the landlord return the rental units to the market, including, first rights of refusal to re-rent their units, and the right to sue for damages if the eviction was in bad faith.

Through the Ellis Act, a landlord can attempt to avoid the existing tenants' rights provisions of Oakland's condominium conversion ordinance and go out of business as a rental property before conversion. The landlord can then evict the tenants to empty the building (complying with the local Ellis Act ordinances), and then apply to subdivide the building. This is the approach a landlord might take who attempts to subdivide a building that is occupied with tenants that would otherwise be entitled to the protections under the Condominium Conversion and Just Cause ordinances.

Current Restrictions on Condominium Conversions.

Oakland's current condominium conversion laws have two significant restrictions on potential conversions: elderly tenants must be given lifetime leases for their units at controlled rents (O.M.C 16.36.050 A.6.); and property owners wishing to convert must obtain "conversion rights" for replacement rental units equal to the number of rental units to be converted (O.M.C. 16.36.370 A.).

The effect of these state laws and the Just Cause Ordinance on the condominium conversion restrictions can be summarized as follows:

- **Vacating Rental Units.** Some landlords want to sell vacant condominium units. Because the Just Cause for Eviction Ordinance prevents a landlord from vacating rental units by using a notice pursuant to California Civil Code § 1946 (30 or 60 day "no cause" eviction), a landlord who seeks to vacate a residential rental property in order to sell vacant condominiums must use the Ellis Act Ordinance to do so. (O.M.C. 8.22.400, et seq.) After the building is converted to condominiums, the owner cannot evict the tenant simply to sell a vacant unit. The Just Cause for Eviction Ordinance covers condominiums (even those exempted from rent controls by Costa-Hawkins). The Ellis Act cannot be used as a basis for vacating an individual condominium unit—only entire buildings. An existing condominium tenant can only be evicted by the owner for occupancy by the owner or the owner's close relatives (unless some other cause exists, such as non-payment of rent or breach of the lease).
- **Additional Risks to Converters Using the Ellis Act.** A landlord who chooses to vacate units via the Ellis Act Ordinance takes a risk that the condominium units can be readily sold. A landlord who vacates a building by way of the Ellis Act cannot re-rent vacant units without re-offering the units to the former tenants and risk litigation by the former tenants. Thus, if condominium units vacated via the Ellis Act cannot be readily sold, a condominium owner might be at financial risk because of the Ellis Act's re-rental restrictions. Additionally, emptying a building via the Ellis Act does not provide an

automatic right to the next step. The building owner must go through the process and file a subdivision map after a building has been emptied and still be subject to approval or denial. A developer could choose to file the map in advance, receive conditional approval for a conversion and then empty the building via the Ellis Act.

- **Lifetime Leases to Elderly.** The City cannot force a landlord to give lifetime leases to elderly tenants if the landlord chooses to withdraw from the market all the rental units in the property. The Ellis Act prevents a City from forcing a landlord to continue renting real property. California Government Code § 7060. Therefore, to attempt to avoid Oakland's current requirement that a landlord converting units offer lifetime leases to elderly tenants, the landlord might take the units off the market and all units would be vacated. (Elderly tenants would get one-year eviction notices. O.M.C. 8.22.400).
- **First Right of Refusal.** The City may still be able to require a converter to offer a first right of refusal to tenants evicted prior to the conversion pursuant to the Ellis Act. This is because those tenants still have residual rights to return to their former units should the landlord decide to re-rent the vacated units. The City may be able to extend the former tenants' rights following conversion to permit them a first right of refusal along the terms of that required by current state and Oakland law.

How these laws may affect condominium conversions. Owners may be more likely to use the Ellis Act to vacate buildings in order to convert to condominiums because of the Just Cause limitation on evicting tenants and because the owner may try to avoid lifetime leases for elderly tenants and possibly the conversion rights requirement. Thus, the stricter the conversion requirements, the more likely a converter is to use the Ellis Act to clear the building and avoid the restrictions. Owners may not always use the Ellis Act because of the extended eviction periods (120 days and one year for elderly and disabled) and because of the potential risk entailed with not timely selling the condominium units and having to rent them. Therefore, the existing restrictions, or forms thereof, could be effective for those circumstances where owners do not want the risk of vacating the building through the Ellis Act. The City may be able to deny a conversion to a subdivider who uses the Ellis Act not to withdraw units from the rental market, but rather to deny tenants their rights under the condominium conversion ordinance.

The Costa-Hawkins exemption from rent regulation for condominiums may provide an additional incentive for landlords to convert to condominiums. The exemption from rent regulations may increase the value of a multi-family building because units can be sold to owners who will rent them rather than owner-occupy and the units would not be subject to Oakland's Rent Arbitration Ordinance.

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5. There is a need to standardize and clarify code requirements for condominium conversions.

Neither the state model building code nor the model fire code considers the conversion of an existing multiple-family dwelling to condominium ownership a "change of occupancy"; and therefore, neither code mandates any analysis of or upgrades to the building's life/ safety systems. Although the current condominium conversion ordinance Oakland Municipal (OMC) (OMC Chapter 16.36), Condominium Conversion, has several provisions to assure that prospective buyers are fully informed of the life-expectancy of habitability systems in the building (roof deterioration, wood frame pest damage, electrical and plumbing capacity, etc.), it currently does not require any fire protection upgrades or seismic safety analysis to assure that condominium conversion buyers enjoy the same degree of protection as other OMC ordinances provide for live/ work conversions and historic building retrofitting.

The Building Services Division of the Community and Economic Development Agency and the Fire Prevention Bureau of the Fire Services Agency are recommending two life/ safety amendments to Oakland Municipal Code chapter 16.36, Condominium Conversions, which will require:

- a seismic analysis similar to the California Historic Building Code to determine the structural weak-points in buildings constructed before 1984 which would contribute to a collapse hazard during an earthquake; and will require
- an upgrade of the building's fire warning system to a level required for Live/ Work conversions.

The seismic analysis report will include a "plain English" summary of structural elements which should be strengthened to meet Historic Building Code design requirements (75% of current building code). As a condition of sale, the building will have to be upgraded with interconnected smoke alarms, exit signs and lighting, building and unit address numbering, and door keys for emergency access by the Fire Department.

The intent of these amendments is to standardize the set of life safety improvements, thereby providing certainty, and to assure that potential buyers are aware of the possible seismic risks of a structure prior to purchase. Since the vast majority of the City's rental stock was constructed prior to 1984, staff believes that these provisions will assure compliance with current minimum life/safety standards and also provide a "buyer beware" set of seismic information that will allow more thoughtful consideration prior to making a substantial investment in real property. Specifically, the earthquake analysis would assess and describe the extent of structural strengthening older buildings would need in order to upgrade them to the (somewhat "relaxed") Historical Building Code safety standards (such as adding foundation anchor bolts, adding plywood in the crawl space to wall framing, bolting outside staircases and parapets to walls, etc.). Any upgrade would still be voluntary, but the buyers would know up-front the extent of a

"potential fix". The installation of 1) "early warning" devices (interconnected smoke alarms), b) hallway emergency exit lighting, c) firefighter "knox boxes" at the main entry with door keys, and d) "prominent" building addressing (so an ambulance driver can find the building) are not costly and are typically required when Building Services plan checks live/ work conversions of older buildings (change-of-use from commercial/ industrial to residential triggers our ability to require this). The electrical wiring for the smoke detectors and exit lighting can be easily tapped into the existing building wiring. Exterior building numbering is an important safety feature for timely identification in an emergency, and tacking up numbers on interior doors is minimally expensive. Knox boxes (similar to what realtors use to store door keys for vacant houses) are an industry standard item, and will mitigate the potential liability for multiple-owners attributable to delays in gaining immediate access for emergency responders.

DETAILED PROGRAM DESCRIPTION OF PROPOSED AMENDMENTS

The City is proposing to amend Section 16.36.070 of the Oakland Municipal Code, "Action on the tentative map or tentative parcel map" that regulates condominium conversions, to remove the difficulties of the current procedures, but retain conditions that provide protections for tenants sixty-two (62) years or older, first right of refusal to existing tenants to contract for the purchase of their unit, and to codify the health and safety code upgrades that will be required with each conversion. These changes will allow each owner exclusive rights to a particular portion of the building, provide increased opportunities for homeownership and provide benefit to the homeowners and neighborhoods.

Amending Chapter 16.36 the Condominium Conversion Ordinance, will eliminate:

1. The Condominium Conversion Impact Area
2. The requirement to provide replacement housing units for every converted unit.

The ordinance would retain:

- The requirement to provide lifetime leases to tenants sixty-two (62) years or older
- Providing first right of refusal to existing and former tenants (evicted pursuant to the Ellis Act Ordinance) to contract for the purchase of their unit
- The requirement for the converter to prepare a tenant assistance plan
- The requirement to delay remodeling of tenant occupied units.

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The amendment would add:

- Pre-codification of the requirements for health and safety code upgrades and noise insulation standards.

The attached draft ordinance contains the language for the proposed amendments.

SUSTAINABLE OPPORTUNITIES

Economic:

Allowing condominium conversions will increase the opportunities for more affordable housing, make additional properties available for purchase, increase the number of homeowners, and generate increased revenues in the form of property transfer taxes and increased property taxes.

Environmental:

Through standardization and upgrading of life/safety systems, older residential buildings will be made safer, thereby increasing overall public safety.

Social Equity:

Easing the requirements to convert existing rental properties to condominiums enables low-income families to become homeowners. Homeownership produces pride of ownership and helps to stabilize neighborhoods. Homeownership offers additional opportunities for the families of homeowners. Loss of rentals will impact the number of available units in the rental market and could impact the ability of displaced tenants to locate comparable rentals.

DISABILITY AND SENIOR CITIZEN ACCESS

Homeownership has a positive impact on the quality of life for families and residents and the neighborhood through pride of ownership. There are no direct accessibility impacts to seniors or people with disabilities related to this report.

STAFF RECOMMENDATION:

To meet the Council's and Mayor's goal to increase homeownership and to reduce excessive regulatory burdens, staff recommends the City Council amend the limitations in the Condominium Conversion Ordinance to:

1. Eliminate the Condominium Conversion Impact Area
2. Allow conversions of existing rental buildings without the requirement to provide replacement units.

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The following provisions are recommended to be retained in the ordinance:

- The requirement to provide lifetime leases to tenants sixty-two (62) years or older
- First right of refusal to existing and former tenants (evicted pursuant to the Ellis Act Ordinance) to contract for the purchase of their unit
- The requirement for the converter to prepare a tenant assistance plan
- The requirement to delay remodeling to tenant occupied units.

The following addition is recommended:

- Pre-codify the requirements for health and safety code upgrades and noise insulation standards.

The City's current condominium conversion ordinance was written to temper the impacts of tenants from condominium conversions and to ensure the City maintains an adequate supply of rental housing. However, changes in state (such as the Ellis Act) law may allow landlords to get around some of the tenant protections, and the lack of condominium conversions and increase in the supply of rental housing over the intervening period since the passage of the condominium conversion ordinance may obviate the need to continue to restrict the number of conversions.

This item is scheduled on the January 7, 2004 agenda of the Planning Commission. Staff will prepare a report of the discussion and recommendations of that meeting to present verbally. Additionally, since this ordinance has not been amended in almost 20 years, other technical changes may be made to the ordinance.

OTHER OPTIONS FOR COUNCIL CONSIDERATION:

Given the concern regarding the loss of affordable rental stock, staff considered several other alternatives to the existing condominium conversion regulations. These options are outlined below:

- Limit the number of conversions per year such as in Berkeley and San Francisco. This approach would require setting up a system to administer the program and track the number of approvals. Council could set the number prior to implementing the program. This approach would also require further analysis in order to determine the fiscal impacts of increased administrative requirements.

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Berkeley allows 100 rental units per year to be converted; San Francisco currently limits condominium conversions to residential rental properties of 2-6 units and restricts conversions to an annual pool of 200 units, and to a second pool of 200 units that may convert subject to resale price and other restrictions.

Staff did not recommend a cap on the number of units that may be converted per year as this generates a process that decides which conversions occur based upon chance and no specific need to limit conversions is evident. If an excessive number of units convert, then restrictions can be added. Staff also notes that in the 23 year history of the ordinance, Oakland has not come near the 100 to 200 year limitation.

- Continue to require subdividers to obtain conversion rights from replacement rental housing, but remove the impact areas and allow all condominium conversions to obtain conversion rights from rental housing built anywhere in Oakland.

ACTION REQUESTED OF THE CITY COUNCIL

1. To affirm staff's environmental determination.
2. To adopt amendments to Chapter 16.36 "Condominium Conversions," of the Subdivision Ordinance of the Oakland Municipal Code which
 - Eliminates the Condominium Conversion Impact Area,
 - Allows conversions of existing rental buildings without the requirement to provide replacement units, but retains:
 - The requirement to provide lifetime leases to tenants sixty-two (62) years or older,
 - First right of refusal to existing and former tenants (evicted pursuant to the Ellis Act Ordinance) to contract for the purchase of their unit,
 - The requirement for the converter to prepare a tenant assistance plan,
 - The requirement to delay remodeling of tenant occupied units, and adds:

--Pre-codification of requirements for health and safety code upgrades and noise insulation standards.

Respectfully submitted,



CLAUDIA CAPPIO

Director of Development

Prepared by:
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Housing and Community Development Division

Jackie Campbell, Program Coordinator

APPROVED AND FORWARDED TO
THE COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE



OFFICE OF THE CITY MANAGER

ATTACHMENTS:

- A. Ordinance - Chapter 16.36 Condominium Conversions
- B. Map of Condominium Conversion Impact Area
- C. Map of US Census Tracts

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APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER _____

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING CHAPTER 16.36 "CONDOMINIUM CONVERSIONS" OF THE SUBDIVISION ORDINANCE OF THE OAKLAND MUNICIPAL CODE TO 1) ELIMINATE THE CONDOMINIUM CONVERSION IMPACT AREA, 2) ALLOW CONVERSIONS OF EXISTING BUILDINGS WITHOUT THE REQUIREMENT TO PROVIDE REPLACEMENT UNITS, RETAIN THE REQUIREMENTS TO PROVIDE 3) LIFETIME LEASES TO TENANTS SIXTY-TWO (62) YEARS OR OLDER, 4) FIRST RIGHT TO EXISTING TENANTS TO CONTRACT FOR THE PURCHASE OF THEIR UNIT, 5) EXPANDS THE RIGHT TO FIRST RIGHT TO PURCHASE TO TENANTS EVICTED PURSUANT TO THE ELLIS ACT ORDINANCE, AND 6) CODIFY THE REQUIREMENTS FOR HEALTH AND SAFETY CODE UPGRADES AND NOISE INSULATION STANDARDS

WHEREAS, the current ordinance pertaining to condominium conversions was adopted by the Oakland City Council in 1981 as Ordinance 10080 C.M.S., and amended in 1982 and 1984 by Ordinances 10203 and 10475, respectively; and

WHEREAS, a significant number of multi-family residential buildings in Oakland were being converted to condominiums during the early 1980's while very few rental units have been converted to condominiums since the condominium conversion ordinance was adopted. The ordinance was enacted in an effort to maintain the City's rental housing supply and protect renters who would be displaced by the conversions. There have been over 3900 rental units added to the supply since 1991; and

WHEREAS, Ordinance 10080 C.M.S. defines a Condominium Conversion Impact Area and further states that any conversion of four or more units throughout the City, or any number of units within a conversion "Impact Area" (primarily around the "Adams Point" area) must be alleviated by the construction of new rental units, conversion of a nonresidential building to residential rental units, or by major renovation of a vacant residential building. Any units converted within the Impact Area must be replaced by new construction, conversion, or rehabilitation of rental units within the Impact Area. The subdivider must

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demonstrate that one rental unit has been added to the City's housing supply for every unit converted to a condominium; and

WHEREAS, the existing regulations are very restrictive and prohibitive for conversions particularly in the Impact Area and it is so difficult to find replacement units that no one has successfully converted within the Impact Area since the regulation went into effect in 1981 while very few units generated outside the Impact Area have been used as replacement units; and

WHEREAS, the City desires to amend the existing condominium conversion ordinance eliminating the condominium conversion impact area and the requirement to provide replacement units and retain the following provisions: 1) the requirement to provide lifetime leases to tenants sixty-two (62) years or older, 2) first right of refusal to existing tenants to contract for the purchase of their unit, 4) tenant assistance plan, 5) delaying remodeling tenant occupied units, and 3) codify the requirements for health and safety code upgrades and noise insulation standards; and

WHEREAS, No 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; and

WHEREAS, the proposed amendments would allow a change in ownership of buildings allowing each owner ownership of a particular unit in the building or exclusive rights to a particular portion of the building, limit the number of displacements, provide increased homeownership opportunities and benefits to an income level that may not otherwise be able to purchase, and generate property transfer tax revenues; now therefore

The Council of the City of Oakland does ordain as follows:

SECTION 1. The Oakland Municipal Code is hereby amended to add, delete, or modify sections as set forth below. Section numbers and titles are indicated in **bold type**, additions are indicated by underlining, and deletions are indicated by ~~strike-out type~~ or balloons in the right margin .

16.36.010 Definitions.

"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 or whether the rental units on the property were taken off the rental market pursuant to the Ellis Act Ordinance (O.M.C. 8.22.400). Whenever an occupancy permit has been issued by the city for a multifamily building, any attempt thereafter to

make the project a condominium, community apartment, or stock cooperative shall constitute a conversion. Those multifamily residential buildings 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 O.M.C. Chapter 16.36 shall not apply to a "limited - equity housing cooperative" as defined in Section 11003.4 of the California Business and Professions Code. (Prior code § 7-7.01).

"Tenant" means a tenant currently residing in the building.

"Former tenant" means a person who previously resided in the building, whose tenancy was terminated pursuant to the Ellis Act Ordinance (O.M.C. 8.22.400), and who notified the building owner of the tenant's interest in purchasing a condominium should the building be converted.

"Prospective tenant" means a person who has expressed an interest in renting one of the units in the building.

16.36.020 Notice of intention to convert.

Subdividers must provide the notices of intention to convert to former, current, and prospective tenants as set out in the subsections below. As a condition of approval of the tentative map or tentative parcel map and final map, the subdivider must certify that they have complied with the noticing requirements.

16.36.021 Notice to Current tenants

At least sixty (60) days prior to filing a tentative map or tentative parcel map for a conversion, the subdivider shall provide all tenants of the building to be converted, individually and in writing, 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 Sections 66451.3 and 66452.5 of the California Government Code, and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

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. 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. 16.36.050, and the information concerning tenant notifications as set forth in O.M.C. 16.36.040.

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

The written notice to tenants required by this section shall be deemed satisfied if it complies with the legal requirements for service of a notice to a tenant pursuant to California Civil Code Section 1946.. (Prior code § 7-7.02)

16.36.022 Notice to Former Tenants Evicted Pursuant to Ellis Act Ordinance

At least sixty (60) days prior to filing a tentative map or tentative parcel map for a conversion, the subdivider must provide all former tenants of the building to be converted who whose tenancy was, individually and in writing, 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). As a former tenant at the property whose tenancy at this building was terminated pursuant to Oakland's Ellis Act Ordinance (O.M.C. 8.22.400) and who notified your former landlord of your interest in purchasing a unit at the building in the event the building is converted to condominiums, you may be entitled to a first right to purchase a unit at the building. Your right to purchase is at the same terms available to the general public.

(signature of owner or owner's agent)

(date)

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 former tenant will be informed and on what rights the former 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.

Also accompanying this notice will be the notice of former tenant rights both as set forth in O.M.C. 16.36.050, and the information concerning tenant notifications as set forth in O.M.C. 16.36.040.

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

The written notice to tenants required by this section shall be deemed satisfied if it is sent by registered or certified mail to the last address provided by each tenant. (Prior code § 7-7.02)

16.36.023 Notice To Prospective Tenants.

Commencing at a date not less than sixty (60) days prior to the filing of a tentative map or tentative parcel map, 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.

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 or Oakland and, if five or more units are involved, until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the California Government Code, and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

I have received this notice on

(date)

(prospective tenant's signature)

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

If the subdivider fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, an amount equal to that required for code enforcement displacements pursuant to O.M.C. 15.60.110 and in such time frames as required by O.M.C. Chapter 15.60 (Prior code § 7-7.03)

16.36.050 Tenant Rights And The Preliminary Tenant Assistance Program.

A. With regard to any conversion as defined in O.M.C. 16.36.010, each tenant shall have the following minimum rights which shall be set forth in a notice of tenant rights.

1. After receipt of this notice, each tenant will be entitled to terminate his or her lease or rental agreement without any penalty upon notifying the subdivider in writing thirty (30) days in advance of such termination; provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the building.
2. No tenant's rent will be increased from the date of issuance of this notice until at least twelve (12) months after the date subdivider files the tentative map or tentative parcel map with the city; provided, however, that this requirement shall cease upon abandonment of subdivider's efforts to convert the building.
3. No 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, from the start of subdivider's sales program.
5. Each tenant has a right of occupancy of at

least one hundred eighty (180) days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program, prior to termination of tenancy due to conversion.

6. Tenants in units containing a tenant sixty-two (62) years or older shall be provided a lifetime lease on their unit or, at tenant's option, on any other available unit in the building. Such leases, to commence no later than the date of issuance of the final subdivision public report, or, if one is not issued, no later than the start of subdivider's sales program, shall be subject to the following conditions:

a. Tenants shall have the option of cancelling the lease without penalty at any time upon thirty (30) days' written notice to the owner.

b. Tenants cannot be evicted except for just cause, which shall not include the right of any owner of the tenant's unit to evict the tenant for occupancy by the owner or the owner's relative.

c. Right of occupancy shall be nontransferable.

d. 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 tentative map or tentative parcel map increased by no more than the CPI Rent Adjustment as determined by the Rent Adjustment Program pursuant to the Rent Adjustment Ordinance (O.M.C. 8.22.100

e. 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 CPI Rent Adjustment as determined by the Rent Adjustment Program pursuant to the Rent Adjustment Ordinance (O.M.C. 8.22.100.

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

g. 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.

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.

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. (Prior code § 7-7.05)

16.36.055 former tenants' rights.

A. This section applies to the persons::

1. Who were previously tenants at the building considered for subdivision;
2. Whose tenancies were terminated pursuant to the Ellis Act Ordinance (O.M.C. 8.22.400); and
3. Who notified the landlord that they wished to have a first right to purchase a unit at the building should it be converted to condominiums.

B. Exclusive Right to Purchase.

1. Each former 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, from the start of subdivider's sales program.
2. The subdivider must notify each former tenant whose tenancy was terminated pursuant to the Ellis Act Ordinance of this exclusive right to purchase. Notices to tenants required by the Ellis Act Ordinance that advise the tenant of the right to re-occupy the tenant's unit shall also include notice of the tenant's exclusive right to purchase.

16.36.060 Tentative Map And Tentative Parcel Map Requirements For Conversions.

In addition to other matters required in this title, the subdivider shall submit to the Advisory Agency, along with the tentative map or tentative parcel map of a conversion, one copy of each of the notices and other documents to be provided to all tenants and prospective tenants pursuant to O.M.C. 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 O.M.C. 16.36.020, 16.36.040 and 16.36.050; and that all prospective new tenants have received and will receive said documents, along with the notice set forth in O.M.C. 16.36.030;

B. That all tenants and City Planning Director will receive all notices as set forth in subO.M.C. B of O.M.C. 16.36.040, and that they will receive all information as required in O.M.C. 16.36.080.

The City Planning Director may require other information to be filed with the tentative map or tentative parcel map which, in the Director's opinion, will assist in determining whether the project is consistent with the purposes set forth in O.M.C. 16.04.010 or will assist in making any of the findings as set forth in O.M.C. 16.36.070. Any such determination by the City Planning Director may be appealed to the Planning Commission in the manner set forth in O.M.C. 17.132.020 of the zoning regulations of the city.

16.36.070 Action on the tentative map or tentative parcel map.

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

F.

O.M.C. the Planning Commission shall deny approval of a tentative map or tentative 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 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. 16.36.050, or any submission required by O.M.C. 16.36.020, 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. (Prior code § 7-7.07)

16.36.080 Final Tenant Assistance Program.

If the tentative map or tentative parcel map is approved, subdivider shall prepare a final tenant assistance program (FTAP) in conformity with any conditions of approval relating to the tenant assistance program. Within two days of receiving such approval, subdivider shall distribute a copy of the FTAP to each tenant and to the City Planning Director. If the Planning Commission approves the map, the FTAP shall be accompanied by a written notice advising tenants of the action of the Planning Commission and informing them of their right to appeal the decision to the City Council, if a tentative map is involved, or to the Planning Commission, if a tentative parcel map is involved, within fifteen (15) days of the date of the decision. (Prior code § 7-7.08)

16.36.090 Information To Be Filed With Final And Parcel Maps.

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

A. A copy of the final tenant assistance program as described in O.M.C. 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. 16.36.110;

C. A certificate of occupancy issued by the City Building Official subsequent to the date of filing of the tentative map or tentative parcel map;

D. One copy each of the following documents more fully described in subsections A, B, C, and E of O.M.C. 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; and a seismic safety report.

E. For tentative map or tentative parcel map approvals involving conversion rights, evidence, in the manner specified by the Planning Commission as set

forth in O.M.C. 16.36.070, that the subdivider owns conversion rights equal in number to the units to be converted.
No final or parcel map shall be approved until the above requirements have been met. (Prior code § 7-7.09)

16.36.100 Information On Final And Parcel Maps.

In addition to other matters required in this title, the information on the final 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 California Subdivision Map Act;

B. A statement certifying that copies of the property report, structural pest report, and utilities/ storage space/ laundry facilities report, and a seismic safety report, all more fully described in O.M.C. 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. 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 City Planning Director and each tenant and/or former tenant in the building to be converted has received or will receive a notice of final 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) of O.M.C. 16.36.040;

D. A statement certifying that the City Planning Director and each tenant and/or former 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. 16.36.110;

E. A statement certifying, in conformity with O.M.C. 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;

F. A statement certifying that informational reports will be submitted to the City Planning Director as required by and set forth in O.M.C. 16.36.140.

Add new subsection . 16.36.100.G as follows:

G. A statement certifying that no unit in the conversion will be offered for sale until the unit and the building in which the unit resides and the complex in which the building resides all conform to the life safety standards promulgated in O.M.C. 16.36.135.No final or parcel map shall be approved until the above requirements have been met. (Prior code § 7-7.10)

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 City Planning Director and all tenants and/or former 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 City Planning Director and all tenants in the building to be converted ten 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. 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 and/or former 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 and/or former tenant has an exclusive right to contract for the purchase of the tenant's or former tenant's respective unit, or, at the tenant's or former 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 or upon terms more favorable to the tenant or former tenant as indicated 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 issuance of said report or the start of the sales 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. 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 each tenant not wishing to purchase a unit 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. (Prior code § 7-7.11)

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 building's roof, and its mechanical, electrical, and plumbing systems, and of the structural elements of all existing ancillary structures on the property, including fences, and retaining walls, 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; water shutoff valves; availability of protected storage space in addition to closet space ordinarily contained within a unit; and laundry facilities, if any;
 - D. 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. (Prior code § 7-7.12)
 - E. A Seismic Safety Report prepared and signed by a civil or structural engineer or architect, currently registered by the state of California, that identifies design deficiencies and potential corrective measures to meet the following minimum structural standards:
 1. For buildings designed in accordance with editions of the Uniform Building Code or the California Building Code published in or after 1985, a report describing the condition and useful life of the building's foundation may be provided in lieu of a lateral load analysis report.
 2. For buildings designed in accordance with editions of the Uniform Building Code published prior to 1985, the following elements, as a minimum, shall be analyzed for conformance with not less than 75% of the lateral load design requirements of the 1994 edition of the Uniform Building Code:
 - a. exterior falling hazards
 - i. parapet stability;
 - ii. non-structural appendage anchorage;
 - b. exterior exit system
 - i. stairway anchorage and stability;
 - ii. exit balcony and fire escape anchorage;
 - c. load path continuity
 - i. wall to roof/ floor diaphragm anchorage and capacity, including out-of-plane forces on the walls;
 - ii. wall to foundation anchorage and capacity, including in-plane forces on marginal members of walls.
3. The Seismic Safety Report shall include a section that briefly summarizes the design analysis in a format and with terminology that can be readily comprehended by a potential purchaser of a unit who is unfamiliar with engineering technical terminology.

16.36.130 Noise Insulation Standards.

No 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. (Prior code § 7-7.13)

Add new Section 16.36.135 as follows:

16.36.135 Life Safety Standards.

No unit in a building approved for conversion shall be offered for sale unless it and the common areas of the building in which the unit resides and the common areas of the complex in which the building resides conform to the following life safety standards:

A. Smoke alarm system

1. Multiple-station (interconnected) smoke alarms, approved and listed by the state fire marshal for the occupancy, shall be installed in individual units as required by the most current edition of the California Building and Fire Codes for new construction.

2. Multiple-station (interconnected) smoke alarms, approved and listed by the state fire marshal for the occupancy, shall also be installed in common areas of the building in which the unit resides as required by the most current edition of the California Building and Fire Codes for new construction and shall automatically cause the sounding of audible signaling devices at designated locations within the common areas of the building.

B. Key box

An approved type of box containing keys necessary for the Fire Department to gain emergency access into the complex, individual buildings, and individual units shall be installed at designated locations in the common areas of the complex and individual buildings.

C. Exit signs

The path of travel to and within exits in a building shall be identified by internally or externally illuminated, ceiling-level and floor-level, exit signs as required by the most current editions of the California Building and Fire Codes for new construction.

D. Unit and building identification

The numbering system for identifying an individual unit and the building in which it resides and the location, graphics, and illumination of the identifying numbers shall be approved by the Fire Marshal and the Building Official.

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 City Planning 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 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. (Prior code § 7-7.14)

SECTION 3. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 4. The Oakland Municipal Code is hereby amended to the existing Condominium Conversion Ordinance.

SECTION 5. Except as specifically set forth herein, this ordinance suspends and supercedes all conflicting resolutions, ordinances, plans, codes, laws, and regulations.

SECTION 6. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

SECTION 7. This ordinance shall become effective as provided in section 216 of the City Charter.

In Council, Oakland, California, _____, 2004, Passed By The Following
Vote:


AYES-

NOTES-

ABSENT-

ABSTENTION-


ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California


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JAN 13 2004

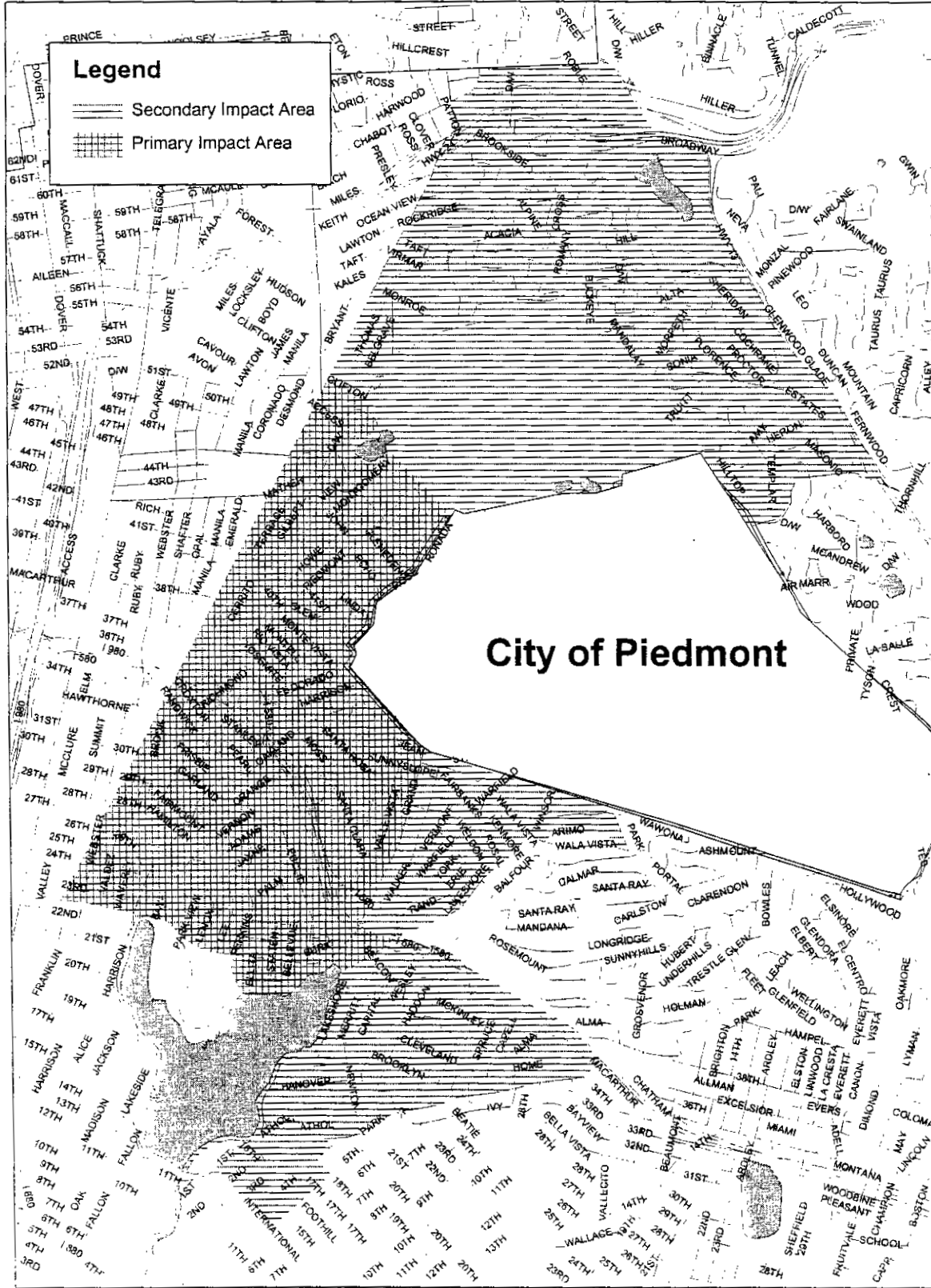
AN ORDINANCE AMENDING CHAPTER 16.36 "CONDOMINIUM CONVERSIONS" OF THE SUBDIVISION ORDINANCE OF THE OAKLAND MUNICIPAL CODE TO 1) ELIMINATE THE CONDOMINIUM CONVERSION IMPACT AREA, 2) ALLOW CONVERSIONS OF EXISTING BUILDINGS WITHOUT THE REQUIREMENT TO PROVIDE REPLACEMENT UNITS, RETAIN THE REQUIREMENTS TO PROVIDE 3) LIFETIME LEASES TO TENANTS SIXTY-TWO (62) YEARS OR OLDER, 4) FIRST RIGHT TO EXISTING TENANTS TO CONTRACT FOR THE PURCHASE OF THEIR UNIT, 5) EXPANDS THE RIGHT TO FIRST RIGHT TO PURCHASE TO TENANTS EVICTED PURSUANT TO THE ELLIS ACT ORDINANCE, AND 6) CODIFY THE REQUIREMENTS FOR HEALTH AND SAFETY CODE UPGRADES AND NOISE INSULATION STANDARDS

NOTICE AND DIGEST

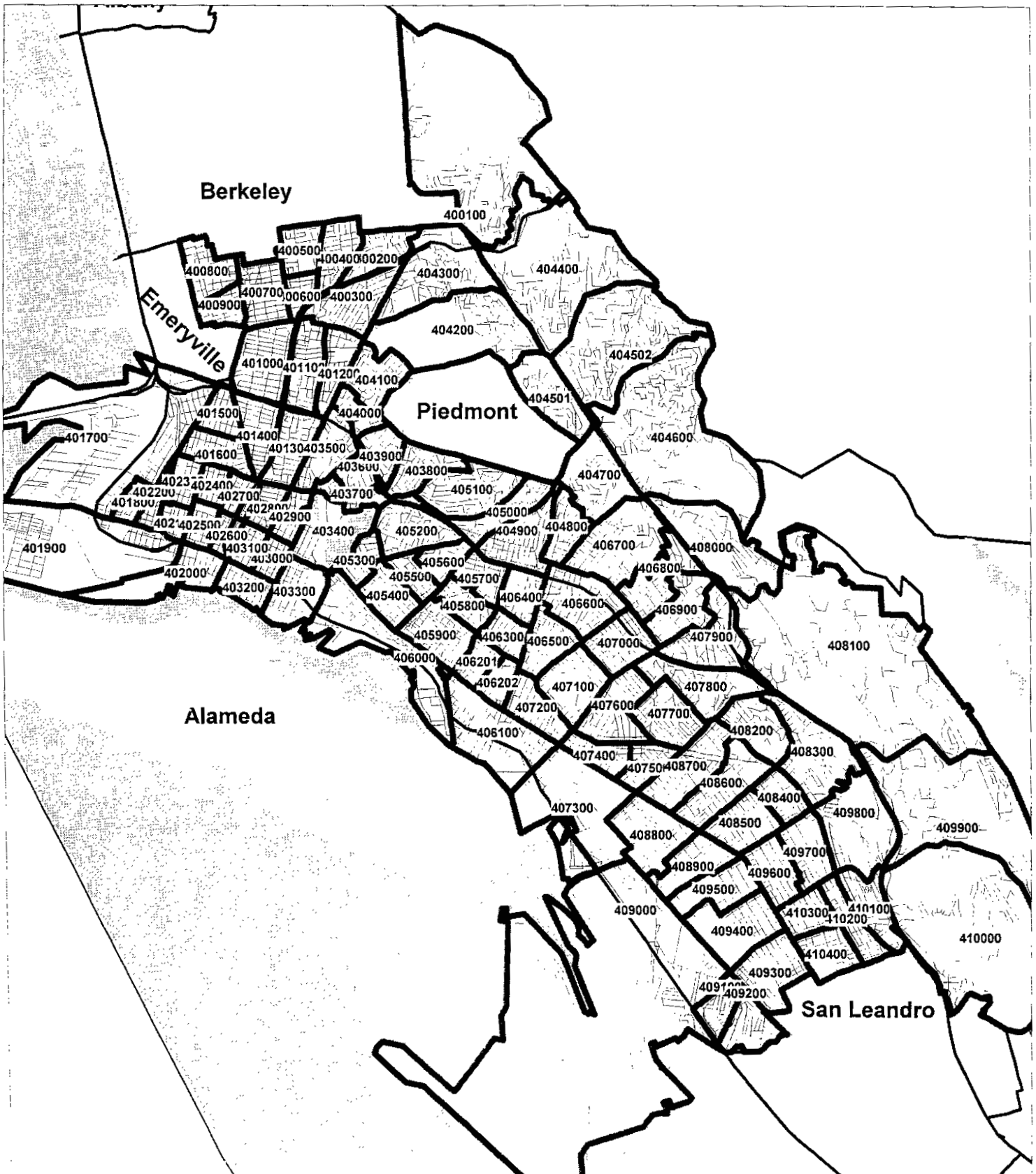
This ordinance would amend Chapter 16.36 "Condominium Conversions" of the subdivision Ordinance of the Oakland Municipal Code to 1) eliminate the Condominium Conversion Impact Area, 2) allow conversions of existing buildings with without the requirement to provide replacement units. The ordinance would retain the requirements to provide lifetime leases to tenants sixty-two (62) years or older, and the first right of refusal to existing tenants to contract for the purchase of their unit. It would expand the right of purchase units to former tenants evicted pursuant to the Ellis Act Ordinance. The ordinance would include additional requirements for health and safety code upgrades and noise insulation standards


**COMMUNITY & ECONOMIC
DEVELOPMENT CMTE**
JAN 13 2004

CONDOMINIUM CONVERSION IMPACT AREA

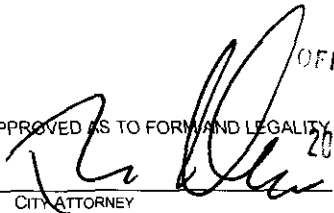


Oakland Census Tracts 2000



INTRODUCED BY COUNCILMEMBER _____

APPROVED AS TO FORM AND LEGALITY
CITY ATTORNEY



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OFFICE OF THE CITY CLERK
OAKLAND
2003 DEC 30 AM 8:45

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING CHAPTER 16.36 "CONDOMINIUM CONVERSIONS" OF THE SUBDIVISION ORDINANCE OF THE OAKLAND MUNICIPAL CODE TO 1) ELIMINATE THE CONDOMINIUM CONVERSION IMPACT AREA, 2) ALLOW CONVERSIONS OF EXISTING BUILDINGS WITHOUT THE REQUIREMENT TO PROVIDE REPLACEMENT UNITS, RETAIN THE REQUIREMENTS TO PROVIDE 3) LIFETIME LEASES TO TENANTS SIXTY-TWO (62) YEARS OR OLDER, 4) FIRST RIGHT TO EXISTING TENANTS TO CONTRACT FOR THE PURCHASE OF THEIR UNIT, 5) EXPANDS THE RIGHT TO FIRST RIGHT TO PURCHASE TO TENANTS EVICTED PURSUANT TO THE ELLIS ACT ORDINANCE, AND 6) CODIFY THE REQUIREMENTS FOR HEALTH AND SAFETY CODE UPGRADES AND NOISE INSULATION STANDARDS

WHEREAS, the current ordinance pertaining to condominium conversions was adopted by the Oakland City Council in 1981 as Ordinance 10080 C.M.S., and amended in 1982 and 1984 by Ordinances 10203 and 10475, respectively; and

WHEREAS, a significant number of multi-family residential buildings in Oakland were being converted to condominiums during the early 1980's while very few rental units have been converted to condominiums since the condominium conversion ordinance was adopted. The ordinance was enacted in an effort to maintain the City's rental housing supply and protect renters who would be displaced by the conversions. There have been over 3900 rental units added to the supply since 1991; and

WHEREAS, Ordinance 10080 C.M.S. defines a Condominium Conversion Impact Area and further states that any conversion of four or more units throughout the City, or any number of units within a conversion "Impact Area" (primarily around the "Adams Point" area) must be alleviated by the construction of new rental units, conversion of a nonresidential building to residential rental units, or by major renovation of a vacant residential building. Any units converted within the Impact Area must be replaced by new construction, conversion, or rehabilitation of rental units within the Impact Area. The subdivider must

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demonstrate that one rental unit has been added to the City's housing supply for every unit converted to a condominium; and

WHEREAS, the existing regulations are very restrictive and prohibitive for conversions particularly in the Impact Area and it is so difficult to find replacement units that no one has successfully converted within the Impact Area since the regulation went into effect in 1981 while very few units generated outside the Impact Area have been used as replacement units; and

WHEREAS, the City desires to amend the existing condominium conversion ordinance eliminating the condominium conversion impact area and the requirement to provide replacement units and retain the following provisions: 1) the requirement to provide lifetime leases to tenants sixty-two (62) years or older, 2) first right of refusal to existing tenants to contract for the purchase of their unit, 4) tenant assistance plan, 5) delaying remodeling tenant occupied units, and 3) codify the requirements for health and safety code upgrades and noise insulation standards; and

WHEREAS, No 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; and

WHEREAS, the proposed amendments would allow a change in ownership of buildings allowing each owner ownership of a particular unit in the building or exclusive rights to a particular portion of the building, limit the number of displacements, provide increased homeownership opportunities and benefits to an income level that may not otherwise be able to purchase, and generate property transfer tax revenues; now therefore

The Council of the City of Oakland does ordain as follows:

SECTION 1. The Oakland Municipal Code is hereby amended to add, delete, or modify sections as set forth below. Section numbers and titles are indicated in **bold type**, additions are indicated by underlining, and deletions are indicated by ~~strike out type~~ or balloons in the right margin .

16.36.010 Definitions

"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 or whether the rental units on the property were taken off the rental market pursuant to the Ellis Act Ordinance (O.M.C. 8.22.400). Whenever an occupancy permit has been issued by the city for a multifamily building, any attempt thereafter to

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make the project a condominium, community apartment, or stock cooperative shall constitute a conversion. Those multifamily residential buildings 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 O.M.C. Chapter 16.36 shall not apply to a "limited - equity housing cooperative" as defined in Section 11003.4 of the California Business and Professions Code. (Prior code § 7-7.01).

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"Tenant" means a tenant currently residing in the building.

"Former tenant" means a person who previously resided in the building, whose tenancy was terminated pursuant to the Ellis Act Ordinance (O.M.C. 8.22.400), and who notified the building owner of the tenant's interest in purchasing a condominium should the building be converted.

"Prospective tenant" means a person who has expressed an interest in renting one of the units in the building.

16.36.020 Notice of intention to convert.

Subdividers must provide the notices of intention to convert to former, current, and prospective tenants as set out in the subsections below. As a condition of approval of the tentative map or tentative parcel map and final map, the subdivider must certify that they have complied with the noticing requirements.

16.36.021 Notice to Current tenants

At least sixty (60) days prior to filing a tentative map or tentative parcel map for a conversion, the subdivider shall provide all tenants of the building to be converted, individually and in writing, 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 Sections 66451.3 and 66452.5 of the California Government Code, and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

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. 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. 16.36.050, and the information concerning tenant notifications as set forth in O.M.C. 16.36.040.

For each application, all documents referred to in this section shall be approved by the City Planning Director as to form, correctness, and completeness. The written notice to tenants required by this section shall be deemed satisfied if it complies with the legal requirements for service of a notice to a tenant pursuant to California Civil Code Section 1946, (Prior code § 7-7.02)

16.36.022 Notice to Former Tenants Evicted Pursuant to Ellis Act Ordinance

At least sixty (60) days prior to filing a tentative map or tentative parcel map for a conversion, the subdivider must provide all former tenants of the building to be converted who whose tenancy was, individually and in writing, 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). As a former tenant at the property whose tenancy at this building was terminated pursuant to Oakland's Ellis Act Ordinance (O.M.C. 8.22.400) and who notified your former landlord of your interest in purchasing a unit at the building in the event the building is converted to condominiums, you may be entitled to a first right to purchase a unit at the building. Your right to purchase is at the same terms available to the general public.

(signature of owner or owner's agent)

(date)

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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 former tenant will be informed and on what rights the former 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.

Also accompanying this notice will be the notice of former tenant rights both as set forth in O.M.C. 16.36.050, and the information concerning tenant notifications as set forth in O.M.C. 16.36.040.

For each application, all documents referred to in this section shall be approved by the Director of City Planning as to form, correctness, and completeness. The written notice to tenants required by this section shall be deemed satisfied if it is sent by registered or certified mail to the last address provided by each tenant. (Prior code § 7-7.02)

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16.36.023 Notice To Prospective Tenants.

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Commencing at a date not less than sixty (60) days prior to the filing of a tentative map or tentative parcel map, 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.

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 or Oakland and, if five or more units are involved, until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the California Government Code, and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

I have received this notice on

(date)

(prospective tenant's signature)

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

If the subdivider fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, an amount equal to that required for code enforcement displacements pursuant to O.M.C. 15.60.110 and in such time frames as required by O.M.C. Chapter 15.60 (Prior code § 7-7.03)

16.36.050 Tenant Rights And The Preliminary Tenant Assistance Program.

A. With regard to any conversion as defined in O.M.C. 16.36.010, each tenant shall have the following minimum rights which shall be set forth in a notice of tenant rights.

1. After receipt of this notice, each tenant will be entitled to terminate his or her lease or rental agreement without any penalty upon notifying the subdivider in writing thirty (30) days in advance of such termination; provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the building.
2. No tenant's rent will be increased from the date of issuance of this notice until at least twelve (12) months after the date subdivider files the tentative map or tentative parcel map with the city; provided, however, that this requirement shall cease upon abandonment of subdivider's efforts to convert the building.
3. No 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, from the start of subdivider's sales program.
5. Each tenant has a right of occupancy of at

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 A. Actual moving expenses incurred when moving from the subject property, but not to exceed a maximum amount, if any, that is specified in the final tenant assistance program, as set forth in Section 16.36.080, or five hundred dollars (\$500.00) whichever is greater; and¶
 B. The first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed five hundred dollars (\$500.00).

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least one hundred eighty (180) days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program, prior to termination of tenancy due to conversion.

6. Tenants in units containing a tenant sixty-two (62) years or older shall be provided a lifetime lease on their unit or, at tenant's option, on any other available unit in the building. Such leases, to commence no later than the date of issuance of the final subdivision public report, or, if one is not issued, no later than the start of subdivider's sales program, shall be subject to the following conditions:

a. Tenants shall have the option of cancelling the lease without penalty at any time upon thirty (30) days' written notice to the owner.

b. Tenants cannot be evicted except for just cause, which shall not include the right of any owner of the tenant's unit to evict the tenant for occupancy by the owner or the owner's relative.

c. Right of occupancy shall be nontransferable.

d. 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 tentative map or tentative parcel map increased by no more than the CPI Rent Adjustment as determined by the Rent Adjustment Program pursuant to the Rent Adjustment Ordinance (O.M.C. 8.22.100,

e. 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 CPI Rent Adjustment as determined by the Rent Adjustment Program pursuant to the Rent Adjustment Ordinance (O.M.C. 8.22.100,

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

g. 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.

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.

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. (Prior code § 7-7.05)

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Deleted: the percentage increase in the Bay Area Rental CPI for the most recent twelve (12) month period

16.36.055 former tenants' rights.

A. This section applies to the persons::

- 1. Who were previously tenants at the building considered for subdivision;
- 2. Whose tenancies were terminated pursuant to the Ellis Act Ordinance (O.M.C. 8.22.400); and
- 3. Who notified the landlord that they wished to have a first right to purchase a unit at the building should it be converted to condominiums.

B. Exclusive Right to Purchase.

- 1. Each former 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, from the start of subdivider's sales program.
- 2. The subdivider must notify each former tenant whose tenancy was terminated pursuant to the Ellis Act Ordinance of this exclusive right to purchase. Notices to tenants required by the Ellis Act Ordinance that advise the tenant of the right to re-occupy the tenant's unit shall also include notice of the tenant's exclusive right to purchase.

16.36.060 Tentative Map And Tentative Parcel Map Requirements For Conversions.

In addition to other matters required in this title, the subdivider shall submit to the Advisory Agency, along with the tentative map or tentative parcel map of a conversion, one copy of each of the notices and other documents to be provided to all tenants and prospective tenants pursuant to O.M.C. 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 O.M.C. 16.36.020, 16.36.040 and 16.36.050; and that all prospective new tenants have received and will receive said documents, along with the notice set forth in O.M.C. 16.36.030;
- B. That all tenants and City Planning Director will receive all notices as set forth in subO.M.C. B of O.M.C. 16.36.040, and that they will receive all information as required in O.M.C. 16.36.080.

The City Planning Director may require other information to be filed with the tentative map or tentative parcel map which, in the Director's opinion, will assist in determining whether the project is consistent with the purposes set forth in O.M.C. 16.04.010 or will assist in making any of the findings as set forth in O.M.C. 16.36.070. Any such determination by the City Planning Director may be appealed to the Planning Commission in the manner set forth in O.M.C. 17.132.020 of the zoning regulations of the city.

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16.36.070 Action on the tentative map or tentative parcel map.

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

F. O.M.C. O.M.C. the Planning Commission shall deny approval of a tentative map or tentative 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 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. 16.36.050, or any submission required by O.M.C. 16.36.020, 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. (Prior code § 7-7.07)

16.36.080 Final Tenant Assistance Program.

If the tentative map or tentative parcel map is approved, subdivider shall prepare a final tenant assistance program (FTAP) in conformity with any conditions of approval relating to the tenant assistance program. Within two days of receiving such approval, subdivider shall distribute a copy of the FTAP to each tenant and to the City Planning Director. If the Planning Commission approves the map, the FTAP shall be accompanied by a written notice advising tenants of the action of the Planning Commission and informing them of their right to appeal the decision to the City Council, if a tentative map is involved, or to the Planning Commission, if a tentative parcel map is involved, within fifteen (15) days of the date of the decision. (Prior code § 7-7.08)

16.36.090 Information To Be Filed With Final And Parcel Maps.

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

- A. A copy of the final tenant assistance program as described in O.M.C. 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. 16.36.110;
- C. A certificate of occupancy issued by the City Building Official subsequent to the date of filing of the tentative map or tentative parcel map;
- D. One copy each of the following documents more fully described in subsections A, B, C, and E of O.M.C. 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; and a seismic safety report.
- E. For tentative map or tentative parcel map approvals involving conversion rights, evidence, in the manner specified by the Planning Commission as set

Deleted: The Director of City Planning may waive the tenant notification requirements contained in Sections 16.36.020 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 no unit within the building will be rented prior to final or parcel map approval, the Director of City Planning may waive the tenant assistance requirements set forth in Sections 16.36.050 and 16.36.080. (Prior code § 7-7.06)¶

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forth in O.M.C. 16.36.070, that the subdivider owns conversion rights equal in number to the units to be converted.
No final or parcel map shall be approved until the above requirements have been met. (Prior code § 7-7.09)

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16.36.100 Information On Final And Parcel Maps.

In addition to other matters required in this title, the information on the final 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 California Subdivision Map Act;

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B. A statement certifying that copies of the property report, structural pest report, and utilities/ storage space/ laundry facilities report, and a seismic safety report, all more fully described in O.M.C. 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. 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;

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C. A statement certifying that the City Planning Director and each tenant and/or former tenant in the building to be converted has received or will receive a notice of final 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) of O.M.C. 16.36.040;

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D. A statement certifying that the City Planning Director and each tenant and/or former 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. 16.36.110;

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~~E.~~ A statement certifying, in conformity with O.M.C. 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;

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~~F.~~ A statement certifying that informational reports will be submitted to the City Planning Director as required by and set forth in O.M.C. 16.36.140.

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Deleted: E. For tentative map or tentative parcel map approvals involving conversion rights, a statement certifying, in conformity with Section 16.36.070, that no unit in the conversion will be offered for sale until a certificate of occupancy will have been issued on those project(s) generating conversion rights;¶
F. For tentative map approvals involving conversion rights, a statement certifying, in conformity with 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 to the issuance of said report;¶

Add new subsection 16.36.100.G as follows:

G. A statement certifying that no unit in the conversion will be offered for sale until the unit and the building in which the unit resides and the complex in which the building resides all conform to the life safety standards promulgated in O.M.C. 16.36.135. No final or parcel map shall be approved until the above requirements have been met. (Prior code § 7-7.10)

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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 City Planning Director and all tenants and/or former 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 City Planning Director and all tenants in the building to be converted ten 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. 16.36.080, shall also state the following:

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- A. That, for buildings of five or more units, a copy of the final subdivision public report is available to each tenant and/or former 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 and/or former tenant has an exclusive right to contract for the purchase of the tenant's or former tenant's respective unit, or, at the tenant's or former 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 or upon terms more favorable to the tenant or former tenant as indicated 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 issuance of said report or the start of the sales 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. 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 each tenant not wishing to purchase a unit 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. (Prior code § 7-7.11)

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 building's roof, and its mechanical, electrical, and plumbing systems, and of the structural elements of all existing ancillary structures on the property, including fences, and retaining walls, and

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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; water shutoff valves; availability of protected storage space in addition to closet space ordinarily contained within a unit; and laundry facilities, if any;

D. 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. (Prior code § 7-7.12)

E. A Seismic Safety Report prepared and signed by a civil or structural engineer or architect, currently registered by the state of California, that identifies design deficiencies and potential corrective measures to meet the following minimum structural standards:

1. For buildings designed in accordance with editions of the Uniform Building Code or the California Building Code published in or after 1985, a report describing the condition and useful life of the building's foundation may be provided in lieu of a lateral load analysis report.

2. For buildings designed in accordance with editions of the Uniform Building Code published prior to 1985, the following elements, as a minimum, shall be analyzed for conformance with not less than 75% of the lateral load design requirements of the 1994 edition of the Uniform Building Code:

a. exterior falling hazards

i. parapet stability;

ii. non-structural appendage anchorage;

b. exterior exit system

i. stairway anchorage and stability;

ii. exit balcony and fire escape anchorage;

c. load path continuity

i. wall to roof/ floor diaphragm anchorage and capacity, including out-of-plane forces on the walls;

ii. wall to foundation anchorage and capacity, including in-plane forces on marginal members of walls.

3. The Seismic Safety Report shall include a section that briefly summarizes the design analysis in a format and with terminology that can be readily comprehended by a potential purchaser of a unit who is unfamiliar with engineering technical terminology.

16.36.130 Noise Insulation Standards.

No 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. (Prior code § 7-7.13)

Add new Section 16.36.135 as follows:

16.36.135 Life Safety Standards.

No unit in a building approved for conversion shall be offered for sale unless it and the common areas of the building in which the unit resides and the common areas of the complex in which the building resides conform to the following life safety standards:

A. Smoke alarm system

1. Multiple-station (interconnected) smoke alarms, approved and listed by the state fire marshal for the occupancy, shall be installed in individual units as required by the most current edition of the California Building and Fire Codes for new construction.

2. Multiple-station (interconnected) smoke alarms, approved and listed by the state fire marshal for the occupancy, shall also be installed in common areas of the building in which the unit resides as required by the most current edition of the California Building and Fire Codes for new construction and shall automatically cause the sounding of audible signaling devices at designated locations within the common areas of the building.

B. Key box

An approved type of box containing keys necessary for the Fire Department to gain emergency access into the complex, individual buildings, and individual units shall be installed at designated locations in the common areas of the complex and individual buildings.

C. Exit signs

The path of travel to and within exits in a building shall be identified by internally or externally illuminated, ceiling-level and floor-level, exit signs as required by the most current editions of the California Building and Fire Codes for new construction.

D. Unit and building identification

The numbering system for identifying an individual unit and the building in which it resides and the location, graphics, and illumination of the identifying numbers shall be approved by the Fire Marshal and the Building Official.

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 City Planning 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 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. (Prior code § 7-7.14)

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SECTION 3. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 4. The Oakland Municipal Code is hereby amended to the existing Condominium Conversion Ordinance.

SECTION 5. Except as specifically set forth herein, this ordinance suspends and supercedes all conflicting resolutions, ordinances, plans, codes, laws, and regulations.

SECTION 6. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

SECTION 7. This ordinance shall become effective as provided in section 216 of the City Charter.

Deleted: This ordinance shall be published once with the names of the City Council Members voting for and against it in the Oakland Tribune, a newspaper which is published in this City and in Alameda County.

In Council, Oakland, California, _____, 2004, Passed By The Following
Vote:

AYES-

NOTES-

ABSENT-

ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

AN ORDINANCE AMENDING CHAPTER 16.36 "CONDOMINIUM CONVERSIONS" OF THE SUBDIVISION ORDINANCE OF THE OAKLAND MUNICIPAL CODE TO 1) ELIMINATE THE CONDOMINIUM CONVERSION IMPACT AREA, 2) ALLOW CONVERSIONS OF EXISTING BUILDINGS WITHOUT THE REQUIREMENT TO PROVIDE REPLACEMENT UNITS, RETAIN THE REQUIREMENTS TO PROVIDE 3) LIFETIME LEASES TO TENANTS SIXTY-TWO (62) YEARS OR OLDER, 4) FIRST RIGHT TO EXISTING TENANTS TO CONTRACT FOR THE PURCHASE OF THEIR UNIT, 5) EXPANDS THE RIGHT TO FIRST RIGHT TO PURCHASE TO TENANTS EVICTED PURSUANT TO THE ELLIS ACT ORDINANCE, AND 6) CODIFY THE REQUIREMENTS FOR HEALTH AND SAFETY CODE UPGRADES AND NOISE INSULATION STANDARDS

NOTICE AND DIGEST

This ordinance would amend Chapter 16.36 "Condominium Conversions" of the subdivision Ordinance of the Oakland Municipal Code to 1) eliminate the Condominium Conversion Impact Area, 2) allow conversions of existing buildings with without the requirement to provide replacement units. The ordinance would retain the requirements to provide lifetime leases to tenants sixty-two (62) years or older, and the first right of refusal to existing tenants to contract for the purchase of their unit. It would expand the right of purchase units to former tenants evicted pursuant to the Ellis Act Ordinance. The ordinance would include additional requirements for health and safety code upgrades and noise insulation standards

A. The Advisory Agency shall deny approval of a tentative map for the conversion of five or more housing units 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 be approved, subject to meeting all other requirements prescribed by state and city, if the subdivider agrees that, prior to final 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. No conversion rights shall be generated by project(s) which are intended to become the property of the Oakland Housing Authority. 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.

B. Project(s) generating conversion rights may involve new rental construction, increasing the number of units in an existing residential rental building, or converting a nonresidential building to residential rental units.

C. Conversion rights may also be generated by bringing back into the supply, through major rehabilitation, a residential rental building that has been vacant for at least one year 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 that the building was indeed vacant for at least one year, 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 equals twenty (20) percent of the total value of the building after rehabilitation.

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.

E.

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| 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) | | |
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| generating the conversion rights. Project(s) for which building permits were issued prior to March 18, 1980 cannot generate conversion rights. | | |
| Page 9: [4] Deleted | Richard F. Illgen | 12/17/2003 4:43 PM |
| No units in the building approved for conversion shall be sold <u>offered for sale</u> until a certificate of occupancy has been issued by the City Building Official on the projects(s) generating the conversion rights . For buildings of five or more units, subdivider shall request the California Department of Real Estate in writing not to 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, which approval shall not be given until all necessary certificates of occupancy have been issued. *** | | |
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| 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 | | |
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| consisting of Census Tracts 4034, 4035, 4036, 4037, 4039, 4040, and 4041; and the secondary section | | |
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| consisting of Census Tracts 4038, 4042, 4043, 4052, and 4053. 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. I. Notwithstanding other provisions of this section, | | |