

**ORDINANCE 06-014**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE  
AMENDING THE EMERYVILLE MUNICIPAL CODE TO ADD REGULATIONS  
PERTAINING TO THE CONVERSION OF EXISTING RESIDENTIAL BUILDINGS TO  
CONDOMINIUMS.**

**WHEREAS**, the City of Emeryville has experienced unprecedented interest in the condominium conversions; and

**WHEREAS**, the City's General Plan encourages the development of a variety of housing stock and affordable housing opportunities; and

**WHEREAS**, the conversion process which divides the ownership of a building into multiple ownership can prolong the use of older buildings but can make major repairs more difficult due to the division of ownership, therefore it is critical that the City review the physical conditions of properties prior to conversion to ensure that they are structurally sound and that major life-safety issues are addressed; and

**WHEREAS**, condominium conversions can provide entry level housing opportunities for first time home buyers and assist in the redevelopment of neighborhoods; but condominium conversion can also displace long-time tenants and result in the loss of affordable rental units; and

**WHEREAS**, the City has no regulations in this area other than the general provisions on subdivisions in the Zoning Ordinance which are not specific to condominium conversion; and

**WHEREAS**, the City has an interest in ensuring that the conversion of rental units to condominium protects the safety and investment of purchasers of the condominiums and minimizes the impacts on the rental tenants; and

**WHEREAS**, in order to permit adequate time for the City Council and Planning Commission to study the matter, on February 21, 2006 the City Council adopted an interim ordinance establishing a temporary moratorium on the division of lands which contain existing residential structures and the conversions of existing residential buildings to condominium; and

**WHEREAS**, on April 4, 2006 the City Council extended the moratorium for an additional ten months and 15 days so that temporary moratorium is set to expire on February 19, 2007; and

**WHEREAS**, on September 25, 2006 the Planning Commission held a duly and properly noticed public hearing, reviewed this proposed ordinance, and adopted a resolution recommending City Council adoption of this ordinance requiring; and

**WHEREAS**, on September 25, 2006 the City Council held a duly and properly noticed public hearing to review and consider this ordinance and make recommendations to the City Council.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION ONE. PURPOSE AND INTENT**

The purpose and intent of this Ordinance is to allow conversion of existing rental units to condominiums while providing for the protection of purchasers of the condominium units, to protect the public health, safety and welfare, and to minimize impacts to rental tenants who may be displaced by the conversion.

**SECTION TWO. ADDING ARTICLE 7 TO CHAPTER 3 OF TITLE 9 OF THE EMERYVILLE MUNICIPAL CODE**

Article 7 is hereby added to Chapter 3 of Title 9 of the Emeryville Municipal Code to read as follows:

**Article 7. Condominium Conversions**

Sections:

- 9-3.701. Purpose
- 9-3.702. Application of this Article
- 9-3.703. Development Standards for Condominium Conversion
- 9.3.703 Tenants Rights
- 9.3.704 Affordable Housing Requirement for Condominium Conversion
- 9.3.705 Application Requirements and Procedure

**9-3.701. Purpose**

The purpose of these regulations is to establish the criteria for the conversion of existing rental units to condominiums while ensuring that:

- (a) Residential condominium conversion projects are consistent with the Housing Element of the General Plan and state law;
- (b) Converted dwellings meet certain safety, quality and appearance standards;
- (c) Purchasers of converted dwelling units are fully informed as to the physical condition of the structure and facilities;
- (d) Tenants are provided with notice of the conversion, relocation benefits and the opportunity to purchase the residential units being converted; and
- (e) The City maintains a supply of affordable housing.

**9-3.702. Application of this Article.**

The provisions of this article apply to any proposal that involves a change in ownership of a single structure or a group of structures used for residential dwelling units from individual ownership to an ownership in which the residential units may be sold individually.

Condominium conversions may include, but are not limited to, any of the following (a) a community apartment project, (b) a condominium project or (c) a stock cooperative as defined by state law. Residential condominium conversion projects which have a recorded final condominium map and which have a current, valid California Department of Real Estate public report approval are exempt from the provisions of this Ordinance.

**9-3.703. Development Standards for Condominium Conversion**

(a) Building and Fire Code Related Improvements: Prior to recordation of final map, the following improvements shall be completed to the satisfaction of Planning and Building Director:

(1) Electrical

Separate grounded electrical meters and panels must be provided to serve each condominium unit and common areas. The electrical upgrade work must be done by a State of California licensed electrical contractor.

(2) Fire-related

(i) Upgrade and/or provide fire sprinkler protection per Emeryville Municipal Code requirements for buildings more than 3000 square feet; or more than two (2) stories in height or; exceeding 35-feet in height.

(ii) Eliminate all openings located within the restricted yard setback zones or provide special sprinkler protection for openings located within the restricted yard setback zones.

(iii) All existing gas services shall be equipped with approved Excess Flow Valves (EFV).

(3) Health-related

(i) Existing toilets are required to be upgraded to comply with the requirements of Section No. 505.6 of the Uniform Housing Code.

(ii) Existing cooking facilities are required to be upgraded to comply with the requirements of Section No. 505.3 of the Uniform Housing Code.

(iii) All units must be provided with heating facilities that comply with the building code currently in effect.

(iv) Hot water shall be available in all condominium units.

(v) All gas fired hot water heaters and forced air units shall comply with the venting requirements of the building code currently in effect.

(4) Security-related

(i) Applicants will be required to upgrade entry doors and screen doors. Key opening hardware on the inside of doors is prohibited.

(ii) Sub-standard security grills are required to be upgraded to comply with the requirements of Emeryville Municipal Code.

(iii) Handrails and guardrails are required to be upgraded to comply with the requirements of the building code currently in effect.

(5) Miscellaneous.

(i) Partial seismic retrofits of buildings are required to meet selected provisions of the current building code for earthquake resistance. These items include the following:

Brick foundations are required to be replaced with current code complying foundations.

Cripple walls are required to be braced to meet current code requirements. Foundation sill plates are required to be bolted down to the foundations to meet current code provisions.

(ii) Basements in dwelling units and every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue. Windows provided for emergency escape or rescue shall comply with minimum sill height and opening size requirements in the current building code.

(iii) Applicants will be required to perform a sub-standard housing evaluation in accordance with Uniform Housing Code Chapter 10. Applicant will be required to repair and/or upgrade all items identified in the sub-standard housing report.

(6) Disclosure items

(i) Applicant shall submit a housing inspection report, prepared by an independent third-party qualified to perform such inspections, to the Planning and Building Department. Applicant shall disclose the housing inspection report to prospective purchasers of the condominiums.

(ii) Applicant shall not be required to upgrade the dimensions of existing rooms to comply with current building codes. Applicant shall be required to disclose any deficiencies to prospective purchasers of the condominiums.

(iii) Applicant is not required to upgrade existing habitable spaces for natural light and natural ventilation (doors and windows). Any rooms with deficient light and ventilation shall not be used for sleeping purposes. Applicant is required to disclose these items and restrictions to prospective purchasers of the condominiums.

(b) Design and Landscaping Upgrades: The Planning Director or the Planning Commission may impose design and aesthetic requirements to improve the appearance of the site and structures thereon. These may include but are not limited to: removal of front yard pavement and replacement with landscaping; replacement of solid driveways with wheel strips and landscaping; replacement of or upgrades to landscaping; new exterior paint; replacement of window frames; and/or restoration of architectural features to the original style, if appropriate.

(c) Public Improvements: The Planning Director or the Planning Commission may require upgrade of existing public curb, gutters, sidewalks, and driveways adjacent to the project site to improve the condition of the sidewalk and to conform to current disabled access requirements

and may require new landscaping, including street trees, in public right-of-way as deemed necessary by the City Engineer.

(d) Deviation from Standards: The Planning Director or the Planning Commission may permit deviation from any standards above if the applicant can demonstrate the standard cannot or should not be reasonably met.

### 9.3.703 Tenants Rights

(a) Tenant Notification: The applicant shall comply with the requirements of Government Code section 66427.1 (as it may be amended from time to time), including but not limited to:

(1) Each tenant shall be given written notice of the intention to convert at least 60 days prior to the filing of a tentative map or parcel map. Applicant shall provide proof of such notification to the Planning Director as part of the application for condominium conversion.

(2) The tenant shall be given 10 days written notice that an application for a public report will be submitted to the Department of Real Estate and that the tenant may receive a copy of the report upon request.

(3) The tenant shall be provided written notice approval of a final map for the proposed conversion within 10 days of the approval.

(4) Each of the tenants shall be given 180 days written notice of the termination of the tenancy due to the conversion or proposed conversion.

(5) Each of the tenants shall be given notice of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that the unit will be initially offered to the general public or on terms more favorable to the tenant. The exclusive right to contract shall run for a period not less than 90 days from the date of issuance of the public report pursuant to section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of the intention not to exercise the right of exclusive offer.

(b) Additional Tenant Rights: In addition to the requirements of Government Code section 66427.1, the following requirements must be met:

(1) No rent increase shall be permitted during the 180 day notice period of termination of the tenancy due to the conversion or proposed conversion.

(2) Tenants may terminate their lease or rental agreement during this 180 period without penalty at any time.

(c) Tenant Relocation Assistance:

(1) At least 60 days prior to the date of termination of the tenancy, applicant shall provide to each tenants, at no cost, a reasonably complete and current list of vacant and available rental units within a two-mile radius of the project site, which units are comparable as to size and amenities to the unit occupied by the tenant. The applicant shall also submit a copy of this list to the Planning Director.

(2) The applicant shall provide a relocation assistance payment to each tenant of the project, limited to one assistance payment per unit. The relocation payment shall be three months

rent based on the current Alameda County "fair market rent" for comparable apartment size, as established by the U.S. Department of Housing and Urban Development or three months of the current rent paid by the tenants, whichever is larger. The assistance is due to the tenant on the date the tenant vacates the unit, or sooner if agreed upon in writing by the parties. The rental assistance does not include the first or last month's rent or cleaning or security deposit. Written notice of the tenant's right to a relocation assistance payment shall be included in the notice of termination of the tenancy.

### **9.3.704 Affordable Housing Requirement for Condominium Conversion**

Condominium conversion projects of 30 or more units shall satisfy the Affordable Housing Set Aside program in accordance with Article 62 of Chapter 4 of Title 9 of the Emeryville Municipal Code.

### **9.3.705 Application Requirements and Procedure**

The application submittal requirements and procedure shall follow the requirements and procedures set forth in this Chapter for tentative maps, parcel maps, or parcel map waivers, as the case may be. In addition, the application submittal shall include the following: (1) floor plans for all buildings on the subject site; and (2) a declaration of Covenants, Conditions and Restrictions which will be applied to any and all owners of condominium units within the project. The declaration shall include, but not be limited to, the conveyance of units; the assignment of parking; an agreement for common area maintenance, including facilities and landscaping, together with an estimate of any initial assessment fees anticipated for such maintenance; description of a provision for maintenance of all vehicular access areas within the project; an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit; and a plan for equitable sharing of communal water and gas metering.

## **SECTION THREE. REPEAL OF INTERIM ORDINANCE**

The Interim Ordinance Establishing A Temporary Moratorium On The Division Of Lands Which Contain Existing Residential Structures And The Conversions Of Existing Residential Buildings To Condominium shall be repealed in its entirety upon the effective date of this Ordinance.

## **SECTION FOUR. CEQA DETERMINATION**

This Ordinance is exempt from the California Environmental Quality Act, under the "General Rule" at Section 15061(b)(3) of the State CEQA Guidelines, because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

## **SECTION FIVE. SEVERABILITY**

The City Council hereby declares that every section, paragraph, clause and phrase of this Ordinance is severable. If, for any reason, any section, paragraph, clause or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

**SECTION SIX. CODIFICATION**

Section Two of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Three, Four, Five, Six and Seven shall not be codified.

**SECTION SEVEN. EFFECTIVE DATE AND POSTING**

This Ordinance shall take effect thirty (30) days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code Section 33693.

This Ordinance was introduced and first read by the City Council of the City of Emeryville at a special meeting on September 25, 2006, and passed and adopted by the City Council at a regular meeting on October 3, 2006, by the following vote:

**AYES: (5) Mayor Atkin, Vice Mayor Kassis and Councilmembers Bukowski, Davis & Fricke**

**NOES: (0) None ABSTAINED: None**

**EXCUSED: None ABSENT: None**

*Ruth Atkin*  
**MAYOR**

**ATTEST:**  
*[Signature]*  
**CITY CLERK**

**APPROVED AS TO FORM:**  
*[Signature]*  
**CITY ATTORNEY**