



ITEM NUMBER:  
DATE:

B-2  
11/27/07

# ***Atascadero City Council***

## ***Staff Report – Community Development Department***

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**PLN 2006-1111**

### **Condominium Development and Condominium Conversion Ordinance (Title 9 and Title 11) City of Atascadero**

***(Approval of Ordinance will allow for conditional use permit review for all new condominium development projects, including site condominiums, and will help to retain the rental housing inventory in Atascadero by establishing procedures and requirements for residential condominium conversions)***

#### **RECOMMENDATION:**

The Planning Commission recommends:

Council introduce for first reading, by title only, Draft Ordinance A to approve PLN 2006-1111 (Zone Change 2006-0118) based on findings.

#### **REPORT IN BRIEF:**

The project consists of a proposed Ordinance Text Amendment to portions of Title 9, Planning and Zoning, and Title 11, Subdivisions, of the Atascadero Municipal Code (AMC). The proposed text places all substantive provisions regarding condominium development and condominium conversions in Title 9, Planning and Zoning, removes a portion of current condominium standards from Title 11 – Subdivisions and includes the following major amendments:

1. Requires a Conditional Use Permit for all condominium projects, including commercial, industrial, site, residential, and conversions.
2. Limits residential condominium conversions to 25% of rental housing newly constructed each year, for conversions of five units or more.
3. Requires that 20% of new residential condominium units or converted apartments, in projects with five units or more, be included in the City's

inclusionary policy at the rate of 4% affordable to very low income households, 7.5% to lower income households, and 8.5% to moderate income households.

4. Provides additional protections to tenants in apartments being converted, including relocation assistance equal to three months rent and an additional one-year occupancy after conversion for seniors and the disabled; also allows tenants with school-aged children to remain in their homes through the school year.
5. Adds additional standards for the physical condition of converted buildings.

## **DISCUSSION:**

The City Council held a strategic planning meeting on September 9, 2005 to review the City's General Plan policies in regards to condominium conversions and the potential loss of the City's rental inventory. The Council directed staff to further investigate options for condominium conversion that would be consistent with the General Plan policies of preserving rental housing stock and encouraging the development of affordable homeownership.

Staff brought the Condominium Conversion issue to the Council on March 14, 2006, at which time the Council directed staff to enact an emergency moratorium for 45 days, (beginning March 1, 2006) until the item could be brought back to the Council for further discussion. Due to difficulty agendaizing the issue, the moratorium was extended until March 27, 2008.

On February 20, 2007 the Council and Commission held a joint meeting to discuss policies related to condominium conversions. During the period of time that the Planning Commission and City Council were addressing issues related to condominium conversions, staff was also trying to address "site" condominiums. The City Council adopted a moratorium on site condominiums until staff could further research and prepare recommendations for this type of project. Based on direction provided to staff by the City Council, a draft ordinance has been prepared for Council review that addresses condominium developments and conversions. At their October 16, 2007 meeting, the Planning Commission, on a 4/0 vote, recommended that the City Council adopt the attached ordinance changes.

Staff has contracted with the firm of Goldfarb & Lipman LLP to assist in the process of drafting a condominium conversion ordinance. Ms. Barbara Kautz and Ms. Polly Marshall are experts in the fields of condominium conversions, inclusionary housing and redevelopment and have worked with agencies throughout California to tailor similar programs. Following the Council and Commission's direction, they have drafted the attached ordinance. Their description of the changes is included as Attachment 1 to this staff report.

Proposed Environmental Determination: The California Environmental Quality Act (CEQA) (Guidelines Section 15061(b)(3)) exempts activities which are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Condominium Development and Condominium Conversion Ordinance does not have the potential to cause a significant effect on the environment. The majority of the conditions imposed by this ordinance will not result in physical changes in the environment, because they affect social and economic conditions by requiring additional project review, affordable housing, relocation payments to tenants, protections against evictions, and similar social conditions which do not affect the physical environment. Specifically, in *Pacific Palisade Prop. Owners Ass'n v. City of Los Angeles*, 42 Cal. App. 3d 781, 791 (1974), the Court of Appeal determined that converting apartments into condominiums is not a project because the conversion does not affect the *physical* environment, but only the ownership of individual units. Although a conversion may have social and economic impacts, it does not have any physical impacts, nor does it create any reasonably foreseeable physical changes.

The only change in property development standards imposed by this ordinance is in regards to condominium conversion projects and requires energy-efficient lighting in all parking areas and adjacent to exterior walkways. All lighting fixtures must be selected, installed, and oriented to prevent glare. This type of small improvement is categorically exempt from CEQA as a minor alteration (Class 15301) to an existing facility involving no expansion of use.

Conclusion: Over the last few years, staff has been receiving more and more condominium conversion inquiries. Staff has processed two condominium conversion requests which were submitted prior to the moratorium. These two applications resulted in approval for a conversion of a four-unit complex to condominiums and a denial for the conversion of a 46-unit conversion. Currently, an additional application for 96 units, submitted after enactment of the moratorium, is waiting to be processed. There have been serious inquiries for additional projects that could potentially result in the conversion of approximately 80-100 units if the property owners decide to move forward with applications. The attached Condominium Development and Condominium Conversion Ordinance will allow for conditional use permit review for all new condominium development projects, including site condominiums, and will help to retain the rental housing inventory in Atascadero by establishing procedures and requirements for residential condominium conversions.

## **FISCAL IMPACT:**

The fiscal impact will vary depending upon the methods of implementation and the effect of the Ordinance on applications. Staff time and resources are currently used to process project requests; additional staff time may be required to monitor construction of new rental units and to administer new inclusionary requirements. However, since few new rental units are currently being constructed, the Ordinance may have the effect

of reducing the staff workload due to a decrease in applications for condominium conversions.

## **ALTERNATIVES:**

1. The Council may introduce the Condominium Development and Condominium Conversion Ordinance.
2. The Council may choose to refer the item back to staff for additional analysis. Clear direction to staff should be provided on additional information or policies that are desired.
3. The Council may recommend that the Condominium Development and Condominium Conversion Ordinance not be adopted. In this case, the Council should provide recommendations on how to proceed under the current Ordinance and the General Plan policies.

## **ATTACHMENTS:**

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|---------------|---|
| Attachment 1: | Description of Proposed Ordinance Changes,<br>Goldfarb & Lipman LLP |
| Attachment 2  | Draft Ordinance A   |

## **DESCRIPTION OF PROPOSED ORDINANCE CHANGES CONDOMINIUM CONVERSION ORDINANCE**

### Issue:

Over the last two years, the City of Atascadero has received an increasing number of applications and inquiries from apartment owners interested in converting their rental units into for-sale condominiums. The issue was initially presented to the City Council on September 9, 2005, and the Council expressed interest in exploring ways to control the rate of condominium conversions. On March 14, 2006, and February 20, 2007, the Council and the Commission reviewed and considered possible modifications to the City's existing Ordinance relating to condominium conversions. The attached ordinance includes those policies discussed at the joint meeting.

### Background:

Typically during times when housing prices are disproportionately high in relation to rents, there has been an interest by individual property owners in converting existing rental units to ownership housing. In the past few years, this has been the situation in Atascadero and throughout San Luis Obispo County: median sales prices in the County increased dramatically and even now are close to \$600,000 (EVC President Mike Manchak, *Pacific Coast Business Times*, September 27, 2007), while rental rates have remained relatively stable. In recent months, sales prices have dropped while rents appear to be increasing (\$750 for a 1 bedroom and \$950 to \$1050 for a 2 bedroom – Classified Ads, *The Tribune*, September 30, 2007) but it is likely that the value of apartment buildings will still be maximized by conversion to condominiums.

These economics have been reflected in an increased number of condominium conversion applications in Atascadero. Applications have been made for the conversion of 96 rentals to condominiums, and inquiries have been made about the conversion of an additional 80-100 units. If all of these apartments were to be converted to condominiums, this would result in the loss of nearly 10 percent of the 2,100 rental units in the City. Other San Luis Obispo County communities have experienced the same increase in applications for conversions.

As one response, the Board of Supervisors adopted new condominium conversion policies for the County in December of 2006.

The City's primary concern with the loss of rental housing is the loss of an affordable housing stock. A stable supply of reasonably priced rental housing is essential to many service-oriented sectors of the local economy. Apartments converted to condominiums

usually offer some of the lowest cost ownership housing. Nonetheless, total ownership costs are nearly always significantly higher than rental costs, and even tenants who can afford increased monthly payments may not have sufficient savings for a down payment and closing costs. Hence, condominium conversions usually result in decreased housing affordability.

The California courts have given cities a great deal of discretion to control condominium conversions, especially through a use permit process. In 1985, the California Supreme Court upheld the ability of cities to require use permits for condominium conversions [*Griffin Devel. Co. v. City of Oxnard*, 39 Cal. 3d 256 (1985)]. More recently, the California Court of Appeal agreed that a city could require a use permit for a conversion even after the owner had recorded a final subdivision map unless the owner had *also* maintained a valid "public report" from the Department of Real Estate at all times [*City of West Hollywood v. 1112 Investment Co.*, 105 Cal. App. 4th 1134 (2003)]. The effect of these decisions is to enable the City to adopt reasonable policies to limit condominium conversions.

### Existing City Policies and Subdivision Map Act Requirements

The City's Housing Element recognizes the importance of rental housing to the City and provides:

“Goal HOS 3: Ensure that an adequate amount of rental housing exists.”

“Policy 3.1: Ensure that the proportion of low and moderate housing is not significantly reduced.”

The City's Subdivision Ordinance was amended in 2000, to include certain controls on condominium conversions. These provide primarily for the notification of tenants, public hearings, and property improvement standards for buildings to be converted. However, the Subdivision Ordinance does not control the rate of conversions nor include provisions to preserve affordable rental housing.

### Major Changes Included in Ordinance

At a joint Planning Commission-City Council meeting on February 20, 2007, the Commission and Council tentatively agreed by consensus that a Condominium Conversion Ordinance should contain certain provisions. The Ordinance recommended by the Planning Commission and now before the Council contains these provisions, as described below:

#### A. Reduction in the Rate of Condominium Conversions

The Condominium Conversion Ordinance allows conversions only when *new* multifamily rental housing is constructed. This is the approach now used by the City of San Luis Obispo and by the County of San Luis Obispo. The City of San Luis Obispo

allows conversions for *half* the number of new multifamily units constructed. The County permits conversions for *one-fourth* the number of new rental multifamily units constructed. Per the direction given at the joint study session, the ordinance permits condominium conversions for only *one-fourth* the number of new rental multifamily units constructed, for conversions of five units or more. (See *Section 9-12.111(c), Special findings for approval.*)

This approach ensures that the number of rental units in the City will steadily increase. The provision may cause rents to increase over time, because conversions typically occur in older buildings with lower rents, while newly constructed apartments normally have higher rents, but the increase in supply should help to ensure a balance of supply and demand.

#### B. Inclusionary Requirements

The proposed Ordinance requires converted units in projects of five units or more to conform to the City's current *inclusionary policy* established for new construction. This requires that 20% of all *new* housing in multifamily buildings be affordable. This 20% is comprised of 4% of the units that are affordable to very low income households, 7.5% affordable to low income households, and 8.5% affordable to moderate income households. (See *Section 9-12.108(a), Affordable housing*. Definitions related to this requirement are included in *Section 9-12.102, Definitions*.)

As a comparison, the County's newly adopted Ordinance requires that 25% of converted units be affordable to low or moderate income households, with at least half (12.5% total) affordable to low income households.

The Ordinance also requires that the affordable units created in redevelopment project areas be required to give the City affordable housing production credit required by redevelopment law. This requires that the units be affordable for 45 years (ownership) or 55 years (rental), rather than 30 years; and that the purchase price for any lower income units be somewhat reduced (based on a total monthly housing cost of \$1,124/month instead of \$1,284/month).

#### C. Protections for Existing Tenants

The Commission and Council agreed that the Ordinance should include the following protections for existing tenants:

1. Tenant Relocation Assistance. The proposed Ordinance mandates the payment of three months rent as a relocation payment and requires that the applicant help find comparable replacement housing for each tenant who will be displaced. San Luis Obispo County also requires a payment of three months' rent, plus additional payments if the tenant is unable to find a comparable unit. (See *Section 9-12.109(a)(1), Relocation assistance.*)

2. Protections for the Elderly and Disabled and Children Attending School. All tenants may remain in their apartment for at least 180 days after the application is approved by the City. (See *Section 9-12.107(h)*, *Continued Right of Occupancy Notice*).

Tenants who are disabled or elderly (over the age of 62) may remain for an *additional* year. Households with school age children may remain until at least 30 days after the end of the school year, if the 180-day period would otherwise end in the middle of the school year. (See *Section 9-12.109(a)(2)*, *Extension of lease of rental agreement for certain tenants*.)

Once an applicant notifies tenants that an application for a condominium conversion will be filed, tenants may only be evicted for violation of their lease or rental agreement. (See *Section 9-12.112(b)*, *No unjust eviction*.)

3. Limits on Rent Increases. After the owner has notified the tenants that an application for a conversion will be filed (a "Notice of Intent"), the owner may not raise rents for a 180-day period (the City's current requirement) and after that, may raise rent only once per year, not to exceed the percentage increase in the consumer price index. (See *Section 9-12.112(c)*, *Limitations on rent increases*.)
4. Additional Notices to Tenants. The Ordinance requires a detailed "Tenant Information Package" explaining not only the conversion process, but also the condition of the building and the impact of the conversion on existing tenants. To comply with the provisions of the Subdivision Map Act, it also more clearly specifies how notice should be given to tenants. Applicants will be required to demonstrate to the City that they have given the required notices, since the City must make a finding that these notices have been given. (See *Section 9-12.106(d)*, *Tenant information package*; *9-12.106(e)*, *Evidence of delivery of required notices*; *Section 9-12.107*, *Special noticing requirements*; *9-12.109*, *Special findings required for approval of condominium conversions*.)

Legislation was just signed by the Governor requiring one additional notice, specifying the form of additional notices, and requiring that, if the rental agreement was negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean, the notices to that tenant must be in that language. The Ordinance has been modified to reflect those changes and also contains general language stating that all Subdivision Map Act requirements must be met, since this seems to be an area that is subject to frequent legislative changes.

5. Other. The Subdivision Map Act specifies a variety of additional protections for tenants, such as the exclusive right to purchase a unit for a 90-day

period. These additional protections are also included in the Ordinance. (See, for instance, *Section 9-12.109(a)(4), Right to purchase.*)

D. Development Standards

Atascadero's current subdivision ordinance imposes physical conditions on condominium conversions and requires a detailed Property Condition Report. These existing requirements are included in *Sections 9-12.109*.

New requirements for energy-efficient exterior lighting and lighting for exterior walkways have been added, as well as a requirement for a one-year warranty for buyers. (See *Sections 9-12.107(m) – (n), Conditions of Approval.*)

E. CC & R Requirements

Atascadero's existing ordinance already imposes certain standards on CC&Rs for condominium conversions and requires a copy of the CC&Rs as part of the Tentative Map application. The proposed Ordinance extends these requirements to all residential condominiums and further limits the parking of trailers, boats, and recreational vehicles on the site; confines parking to designated parking areas; and requires City approval for amendment to the portions of the CC&Rs that implement the City's Conditions of Approval. (See *Section 9-12.108(b), Association documents.*)

F. Need for Conditional Use Permit

Any applicant for a condominium or condominium conversion would be required to obtain a use permit as well as approval of a Tentative Map. Consequently, the substantive provisions of the Condominium Conversion Ordinance have been removed from the City's Subdivision Ordinance and placed in the Zoning Ordinance. Court decisions have established that the City has more authority to regulate condominium conversions under the Zoning Ordinance than under the Subdivision Ordinance.

Conclusion

The proposed Condominium Development and Condominium Conversion Ordinance includes policy options that are likely to retain affordable rental housing by limiting the rate of conversions and requiring that at least 20 percent of converted units remain affordable.

## CONDOMINIUM DEVELOPMENT PROJECTS

### Issue:

Early in 2007, the City of Atascadero was compelled to accept a condominium project with “site condominiums.” Since the City did not have standards and regulations to address this type of development, the project proceeded as a site condominium without review of the implications of a “small lot subdivision.” Members of the development community are showing an increased interest in this “hybrid” process which is a cross between a condominium project and a small-lot subdivision and circumvents the subdivision process.

### Background:

The City is seeing more and more applications for condominium projects and small lot subdivisions (PD-7’s). The condominium application may be a preferred method of processing a project because it does not typically require City Council review and if the request is for one to eleven units, it would not require Planning Commission review or a Master Plan of Development. Often, developers will begin a condominium project as an apartment project and once construction is underway or near completion, the developer will then apply for a condominium subdivision. The standards for staff review on apartment projects are not as stringent as those on a planned development or condominium project.

Most apartment/condominium projects are designed to be administered by a management company or home owners association. There are common areas which are to be shared and landscaping, building exteriors and pavement that must be maintained. If the developer then requests a “site condominium” project, individual homeowners become responsible for much of the maintenance and what was planned to be common space may become private. The required common open space may become a strip of air, defined as ten feet above the roof, twenty feet wide and extending upward to infinity.

### Existing City Policies and Subdivision Map Act Requirements

The City's Housing Element recognizes the importance of a variety of housing options to serve the requirements of residents. The General Plan provides:

“Policy 1.2: Encourage a variety of high quality housing types in multi-family areas by allowing planned developments with detached units on individual lots or airspace condominiums on commonly owned lots.”

“Policy 2.1: Ensure that new development is compatible with existing and surrounding neighborhoods.”

Staff's research shows that site condominiums are used fairly frequently back East for row house type developments. These types of developments generally fill a housing need that falls somewhere between a conventional condominium project and a small lot subdivision. While the units are fairly close together or, in some cases, attached, there is more autonomy with ownership of a site condo.

The proposed Condominium Development and Conversion Ordinance would require a Master Plan of Development through the processing of a Conditional Use Permit (CUP) to ensure that all condominium developments provide sufficient open space for unit owners and establish the necessary conditions and operating procedures to ensure that such developments have adequate maintenance responsibility and access for the long-term management of the project.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO ADDING CHAPTER 9-12, REPEALING CHAPTER 11-12, AND AMENDING SECTIONS 11-2.09 AND 11-4.02 OF THE ATASCADERO MUNICIPAL CODE RELATING TO CONDOMINIUM DEVELOPMENTS AND CONDOMINIUM CONVERSIONS**

**WHEREAS**, an application has been received from the City of Atascadero, 6907 El Camino Real, Atascadero, CA 93422 (Applicants) to consider a Municipal Code Amendment affecting Titles 9 and 11 to establish procedures for condominium development and condominium conversion of rental apartment to “for sale” condominium units; and,

**WHEREAS**, the proposed amendments to the Municipal Code are exempt from review under the California Environmental Quality Act (CEQA) because CEQA Guidelines Section 15061(b)(3) exempts activities which are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Condominium Development and Condominium Conversion Ordinance does not have the potential to cause a significant effect on the environment. The majority of the conditions imposed by this ordinance will not result in physical changes in the environment, because they affect social and economic conditions, such as by requiring additional project review, affordable housing, relocation payments to tenants, protections against evictions, and similar social conditions which do not affect the physical environment; and the only change in property development standards imposed by this Ordinance, in regard to exterior lighting, is categorically exempt from CEQA as a minor alteration (Class 15301) to an existing facility involving no expansion of use; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City to enact this Condominium Development and Condominium Conversion Ordinance to protect the health, safety, and welfare of its citizens by applying orderly development, ensuring adequate open space, adequate long term maintenance procedures and protecting rental housing units and expanding affordable housing opportunities within the City; and,

**WHEREAS**, a timely and properly noticed Public Hearing upon the subject Condominium Development and Condominium Conversion Ordinance was held by the Planning Commission of the City of Atascadero on October 16, 2007, at which hearing evidence, oral and documentary, was admitted on behalf of said Text Amendments; and,

**WHEREAS**, the Planning Commission recommended approval of said Ordinance to the City Council; and

**WHEREAS**, a timely and properly noticed Public Hearing upon the subject Condominium Development and Condominium Conversion Ordinance was held by the City Council of the City of Atascadero on November 27, 2007, at which hearing evidence, oral and documentary, was admitted on behalf of said Text Amendments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO does ordain as follows:

**Section 1.** The City Council hereby adopts the recitals contained above as findings to support the adoption of an ordinance concerning condominiums and condominium conversions.

**Section 2.** Chapter 12, Condominiums and Condominium Conversions, is added to Title 9, Zoning and Planning, of the Atascadero Municipal Code, to read as follows:

## **Chapter 12 CONDOMINIUM DEVELOPMENT AND CONDOMINIUM CONVERSIONS**

### **ARTICLE 1. GENERAL PROVISIONS**

**9-12.101 Purpose and intent.**

**9-12.102 Definitions.**

### **ARTICLE 2. REVIEW PROCEDURES**

**9-12.103 Applicability.**

**9-12.104 Required approvals.**

**9-12.105 Application requirements for condominium projects and condominium conversions.**

**9-12.106 Special application requirements for residential condominium conversions.**

**9-12.107 Special noticing requirements for residential condominium conversions.**

### **ARTICLE 3. PROPERTY REQUIREMENTS**

**9-12.108 Conditions of approval.**

**9-12.109 Special conditions of approval for residential condominium conversions.**

**9-12.110 Exceptions to property improvement standards for condominium conversions.**

**9-12.111 Special findings required for approval of condominium conversions.**

### **ARTICLE 4. TENANT AND BUYER PROTECTIONS FOR RESIDENTIAL CONDOMINIUM CONVERSIONS**

**9-12.112 Tenants' rights.**

**9-12.113 Reports to be furnished to prospective purchasers.**

## **ARTICLE 1. GENERAL PROVISIONS.**

### **9-12.101 Purpose and intent.**

The purpose of this Chapter is to:

- (a) Provide design and property improvement standards for condominium and condominium conversion projects;
- (b) Ensure that a homeowners' association for residential projects or a property owners' association for commercial/industrial projects is established that is adequately funded and organized to repair and maintain all common areas, infrastructure and structures;
- (c) Ensure that all condominium projects, including condominium conversion projects, provide necessary and useable easements to, and for, open space, ingress, egress, and utility and structure repair and maintenance.
- (d) Ensure that all condominium projects, including conversion projects, provide inclusionary housing units under the City's Inclusionary Housing Policy.
- (e) Ensure that the City maintains an adequate supply of rental multiple dwelling units affordable to lower and moderate income persons and a diversity of housing types, in compliance with the Land Use Element and Housing Element of the City's General Plan;
- (f) Reduce the impact of condominium conversions on residents of rental housing who may be required to relocate;
- (g) Ensure that housing converted to condominiums is constructed at a standard that is consistent with current building codes;
- (h) Ensure that all common areas are readily useable and accessible to all residents.

### **9-12.102 Definitions.**

The following definitions are applicable to this Chapter.

**Affordable Ownership Cost.** A reasonable down payment and an average monthly housing cost during the first calendar year of occupancy, including mortgage loan principal and interest, mortgage insurance, property taxes and property assessments, homeowners insurance, homeowners association dues, if any, and all other dues and fees assessed as a condition of property ownership, which does not exceed: (A) one-twelfth of 30 percent of 50 percent of area median income for very low income households; (B) one-twelfth of 30 percent of 80 percent of area median income for lower income households; or (C) one-twelfth of 30 percent of 120 percent of area median income for moderate-income households. However, within redevelopment project areas, monthly housing costs shall not exceed: (A) one-twelfth of 30 percent of 50 percent of area median income for very low income households; (B) one-twelfth of 30 percent of 70 percent of area median income for lower income households; or (C) one-twelfth of 35 percent of 110 percent of area median income for moderate-income households. In calculating the affordable ownership cost of a unit, area median income shall be adjusted for assumed household size based on unit size.

**Affordable Rent.** Monthly rent, including a reasonable utility allowance and all mandatory fees charged for use of the property, which does not exceed: (A) one-twelfth of 30 percent of 50 percent of area median income for very low income households; (B) one-twelfth of 30 percent of 60 percent of area median income for lower income households; and (C) one-twelfth of 30 percent of 110 percent of area median income for moderate-income households. In calculating affordable rent for a unit, area median income shall be adjusted for assumed household size based on unit size.

**Area Median Income.** The annual median income for San Luis Obispo County, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision, or as established by the City of Atascadero in the event that such median income figures are no longer published periodically in the California Code of Regulations.

**Assumed Household Size.** One person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, four persons in a three-bedroom unit, and one additional person for each additional bedroom.

**Condominium Project.** Any common interest development as defined in Civil Code Section 1351, whether designed for residential, commercial or industrial use, including but not limited to a condominium, planned development, stock cooperative, or community apartment project.

**Condominium Conversion.** The conversion of existing dwelling units that have been approved for occupancy and cannot be sold individually into a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project) or into any other ownership type in which the dwelling units may be sold individually; or the conversion of existing non-residential space into a common interest development as defined in Civil Code Section 1351.

**Disabled Person.** A person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having such an impairment, or anyone who has a record of such an impairment, as defined in the federal Fair Housing Act or Americans with Disabilities Act.

**Lower Income Household.** A household whose income does not exceed the lower income limits applicable to San Luis Obispo County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

**Moderate Income Household.** A household whose income does not exceed the moderate income limits applicable to San Luis Obispo County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

**Residential Development.** All dwelling units located on one parcel or on contiguous parcels and owned, operated, or managed by one entity, or which were constructed as part of one development project.

**Very Low Income Household.** A household whose income does not exceed the lower income limits applicable to San Luis Obispo County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

## **ARTICLE 2. REVIEW PROCEDURES**

### **9-12.103 Applicability.**

The procedures and standards contained in this chapter shall apply to all condominium projects and all condominium conversions, except for condominium conversions for which a complete application was made prior to March 1, 2006.

No residential condominium conversion may be considered to include four units or less unless it is contained within a residential development that contains no more than four dwelling units.

### **9-12.104 Required approvals.**

No condominium project or condominium conversion shall be permitted unless a conditional use permit is approved pursuant to the provisions of this Chapter and Section 9-2.109 of this Code. Condominium projects and condominium conversions shall also require a tentative and final map pursuant to Title 11 of this Code, and shall be subject to all applicable provisions of the Subdivision Map Act, Title 11 of this Code, and all other applicable state and local laws and ordinances. Provisions for notice, hearing, and appeal shall be as specified in Title 9 and Title 11 of this Code for conditional use permits and tentative maps, respectively, except as modified by the provisions of this Chapter.

### **9-12.105 Special application requirements for condominium projects and condominium conversions.**

A conditional use permit application for a condominium project shall be completed and submitted along with a completed environmental assessment form and all other information as described on the checklist attached to the application.

An application for a tentative map or tentative parcel map shall be submitted concurrently with the conditional use permit application. The tentative map or tentative parcel map shall be accompanied by all information described in the checklist attached to the application.

Where the information requirements for a conditional use permit and tentative map conflict, the requirements for the greatest amount of information shall apply.

### **9-12.106 Application requirements for residential condominium conversions.**

The conditional use permit application for a residential condominium conversion shall be accompanied by an application for a tentative map as required by Title 11 of this Code. The application shall include all information required by Title 11 and by Section 9-2.109 and the following additional information:

(a) Housing Impact Report. A report that describes: the number of households that may be displaced; the numbers of persons residing in all households; the age and income levels of all tenants; units occupied by persons who are over sixty-two (62) years of age, disabled, or between five (5) and eighteen (18) years of age; the square footage, number of bedrooms, rental rates, and vacancy rate of all units for the previous three years; and documentation of the community-wide number of rental units with similar rental rates. The Housing Impact Report shall also include the location of the proposed affordable units required by Section 9-12.108(a) and their proposed affordability level, except for condominium conversions of four units or less.

(b) Property Condition Report. A detailed description of the physical condition of the property, including:

(1) Property and structural compliance with the current building and zoning codes, including foundations, ventilation, utilities, walls, roofs, windows, mechanical and electrical equipment, appliances which will be sold with the units, common areas, roads, paved and parking areas, utilities, and infrastructure. The report shall state, to the best knowledge of the applicant, and for each element: the date of construction, the condition, the expected useful life, the cost of replacement, and any variation from current building and zoning codes. The report shall identify all defective or unsafe elements or those which may impair use and enjoyment of the property; corrective measures required to meet current code standards; modifications needed to meet current sound attenuation and energy conservation standards; estimated costs of needed repairs and annual maintenance costs, including a sinking fund; and the estimated annual amount of homeowners' association fees. The report shall be prepared by a registered civil or structural engineer or architect;

(2) A report from a licensed pest-control operator describing in detail the presence and effects of any wood destroying organisms; corrective measures; and estimated repair costs;

(3) A report of any known soil or geological problems, prepared by a licensed geotechnical engineer; required and recommended corrective measures; and estimated repair costs. Reference shall be made to any previous soils or geotechnical reports prepared for the site.

(4) A report by the Building Official, Fire Marshal, and Planning Services, or designee, regarding the building's and site's compliance with current building and zoning codes and listing any code violations found.

(c) Site Plan. A site plan which shall include at least the following:

(1) The location, number of stories, number of dwellings, and proposed use of each structure to remain and of any proposed new structure;

(2) The location, use, and type of surfacing for all open storage areas;

(3) The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas, and curb cuts;

(4) The location and number of all covered and uncovered parking spaces;

(5) The location of all existing and proposed utility lines and meters;

(6) The location, height and type of materials for walls and fences;

(7) The location of all landscaped areas, the type of landscaping, method of irrigation, exterior lighting, and a statement specifying private or common maintenance;

(8) The location and description of all recreational facilities;

(9) The location, size, and number of parking spaces to be used in conjunction with each unit;

(10) The location, type, and size of all drainage pipes, structures, and basins;

(11) Existing contours, building pad elevations, and percent slope for all driveways and parking areas.

(d) Tenant Information Package. A tenant information package that includes at least the following:

(1) The name and address of developer and/or property owner;

(2) A copy of the Housing Impact Report and Property Condition Report that are submitted in compliance with subsections (a) and (b) of this Section;

(3) The approximate sales price of each unit;

(4) Provisions for affordable housing in compliance with Section 9-12.108(a), except for condominium conversions of four units or less; and

(5) A copy of the Notice of Intent to Convert required by Section 9-12.107(a).

The Tenant Information Package shall be delivered to each tenant within five (5) working days after the Community Development Director has approved the Tenant Information Package.

(e) Evidence of Delivery of Required Notices.

(1) Signed copies from each tenant acknowledging receipt of the Notice of Intent to Convert; or, for each tenant for whom a signed acknowledgment is not submitted, satisfactory evidence that the Notice of Intent to Convert was sent to each tenant in compliance with the legal requirements for service by mail and was sent by U.S. certified mail, return receipt requested.

(2) Evidence to the satisfaction of the Community Development Director that all tenants of the proposed condominium conversion have been, or will be, given all written notices required by this Chapter and by the Subdivision Map Act, and that such notices have, or will, comply with the legal requirements for service by mail. The applicant shall provide the City with copies of all affidavits prepared in compliance with Code of Civil Procedure Section 1013a.

(f) Other Information. Any other information which in the opinion of the Community Development Director will assist in determining whether the findings required by Sections 9-2.109 and 9-12.111 of this Code can be made. The applicant shall submit to the City a copy of each application for a public report made to the California Department of Real Estate, including a copy of the supplemental questionnaire for apartments converted to condominiums.

### **9-12.107 Special noticing requirements for residential condominium conversions.**

In addition to the notices of public hearing required by Section 9-1.110 and Section 11-4.06 of this Code, the following additional notices shall be given. Notice shall comply with the legal requirements for service by mail contained in Code of Civil Procedure Sections 1012, 1013, and 1013a or as otherwise required by law, or shall be made by personal delivery to each tenant or other person entitled to receive notice, confirmed by written acknowledgement of receipt of the notice. In addition, the Notice of Intent to Convert, Right to Purchase and Intention to Convert Notice, and copies of City staff reports shall be **delivered to each occupied dwelling unit included in the proposed conversion.** If a rental agreement was negotiated in Spanish, Chinese, Tagalog, Vietnamese or Korean, all required notices to that tenant shall be issued in that language. The applicant shall also provide any additional notice required by the Subdivision Map Act or other state or federal law. It is the City's intent that the provisions of this Section 9-12.107 apply to all residential condominium conversions, including condominium conversions of four units or less.

(a) Notice of Intent to Convert. The applicant shall give a written Notice of Intent to Convert to each tenant at least sixty (60) days prior to submittal of the conditional use permit and tentative map application for the condominium conversion. The notice shall be in the form prescribed by the Subdivision Map Act and in addition shall include the following:

(1) Name and address of current owner;

(2) Name and address of subdivider;

(3) Approximate date on which the unit is to be vacated by nonpurchasing tenants if the conditional use permit and tentative map are approved,

(4) The tenant's right to continue to rent the unit for at least one hundred and eighty (180) days after the date of any approval of the conditional use permit and tentative map, or for up to one (1) year beyond the one hundred eighty (180)-day termination period if any resident of the unit is over 62 years of age, disabled, lower income, or has school-age children. The Notice of Intent to Convert shall describe how the tenant may establish that a resident of the unit is over 62

years of age, disabled, or has school-age children, or that the household qualifies as a lower income household.

(5) The tenant's exclusive right to purchase the unit upon the same terms that the unit will initially be offered to the general public, or on more favorable terms, for a period of at least ninety (90) days after a subdivision public report has been issued by the California Department of Real Estate or after commencement of sales, whichever is later.

(6) Except for condominium conversions of four units or less, provisions for affordable housing as required by Section 9-12.108(a).

(7) A general description of the relocation assistance to be provided pursuant to Section 9-12.109(a)(1).

(8) The tenant's right to terminate any lease or rental agreement for the unit as provided by Section 9-12.112(a).

(9) Protection from unjust eviction as required by Section 9-12.112(b).

(10) Limitations on rent increases as required by Section 9-12.112(c).

(11) City contact information (telephone, street address, and e-mail address).

(b) Notice to Prospective Tenants. Commencing not less than sixty (60) days prior to submittal of the conditional use permit and tentative map application for the condominium conversion, the applicant shall, before accepting any rent or deposit from any prospective tenant, provide the prospective tenant with the notice required by Government Code Section 66452.8, a copy of the Notice of Intent to Convert, and a copy of the Tenant Information Package, if it has been approved by the Community Development Director.

(c) Tenant Information Package. The applicant shall provide all tenants with a copy of the Tenant Information Package specified in Section 9-12.106(d) within five (5) working days of its approval by the Community Development Director.

(d) Public Report Submittal Notice. The applicant shall provide a Public Report Submittal Notice to each tenant within ten (10) days of the submittal of an application for a public report to the California Department of Real Estate, in the form prescribed by the Subdivision Map Act. The notice shall indicate that the public report will be available to the tenant upon request and that the tenant's exclusive right to purchase commences no earlier than the date of issuance of the final public report.

(e) Issuance of Public Report Notice. The applicant shall provide an Issuance of Public Report Notice to each tenant within five (5) days after the date that the applicant receives the public report from the California Department of Real Estate, in the form prescribed by the Subdivision Map Act.

(f) Approval Notice. The applicant shall provide an Approval Notice to each tenant within ten (10) days of any approval of the final map for the condominium conversion, in the form prescribed by the Subdivision Map Act.

(g) Exclusive Right to Purchase Notice. The applicant shall provide each tenant with an Exclusive Right to Purchase Notice at the beginning of the tenant's exclusive right for a period of ninety (90) days to contract for the purchase of the unit upon the same terms that the unit will initially be offered to the general public, or on more favorable terms. The Right to Purchase Notice shall state the date that the ninety (90)-day period will commence, describe the terms on which the unit is being offered, comply with the requirements of the Subdivision Map Act, and include the information for buyers specified in Section 9-12.113 and the subdivision public report.

(h) Continued Right of Occupancy and Intention to Convert Notice. After City approval of the conditional use permit and tentative map, the applicant shall provide each tenant with a Continued Right of Occupancy and Intention to Convert Notice stating that each tenant will be given a minimum period of one hundred eighty (180) days to vacate the unit, unless the period is extended pursuant to Section 9-12.109(a)(2). This Continued Right of Occupancy Notice is not a notice to terminate the tenancy as required by Civil Code Section 1946.1. The Notice shall be consistent with the form prescribed by the Subdivision Map Act.

(i) Notices of Public Hearing and Copies of City Staff Reports. As required by the Subdivision Map Act, the applicant shall provide each tenant with a copy of any hearing notice and any staff report on the condominium conversion at least three (3) days prior to any public hearing on the proposed condominium conversion.

### **ARTICLE 3. PROPERTY REQUIREMENTS**

**9-12.108 Conditions of approval**. All residential condominium projects and all residential condominium conversions shall comply with the following provisions prior to recordation of the final map.

(a) Affordable Housing. Except for residential condominium projects and residential condominium conversions of four units or less, the applicant shall agree to rent or sell twenty (20) percent of the total number of residential units or units to be converted to very low, lower, and moderate-income households, as follows:

(1) Four percent (4%) of the total number of units to be converted shall be rented or sold at an affordable ownership cost or affordable rent to very low income households.

(2) Seven-and-one-half percent (7.5%) of the total number of units to be converted shall be rented or sold at an affordable ownership cost or affordable rent to lower income households.

(3) Eight-and-one-half percent (8.5%) of the total number of units to be converted shall be rented or sold at an affordable ownership cost or affordable rent to moderate income households.

The units shall remain affordable for thirty (30) years, except that, if the condominium project or condominium conversion is located within a redevelopment project area, the units shall remain affordable for forty-five (45) years, if sold to qualifying households, or for fifty-five (55) years, if rented to qualifying households. The affordable units shall be distributed throughout the project and not concentrated in one location. Fractions of units of 0.5 or greater shall be rounded up to the next highest whole number. For fractions of less than 0.5, the applicant may provide an additional affordable unit or pay in-lieu fees established by the City prior to final map approval. Tenants of the condominium conversion project who are income-qualified shall be given priority to acquire the affordable units, and a lottery shall be used if necessary to determine unit possession. The affordable units required by this section shall be provided in addition to any existing deed restricted affordable units in the project. If the project is subject to the affordable housing requirements of other ordinances or agencies, then the most restrictive requirements shall apply. Prior to approval of the final map, an affordable housing agreement between the applicant and the City shall be recorded to ensure continued affordability of the required affordable units.

(b) Association Documents. The declaration of covenants, conditions and restrictions, articles of incorporation, bylaws, and contracts for the maintenance, management, or operation of any part

of the condominium conversion project shall be submitted to the City for review and approval prior to approval of the final map, to ensure that the documents comply with all required conditions of approval. In addition to the requirements of Civil Code Section 1355 and any requirements which might be imposed by the City consistent with these regulations, the organizational documents shall include provisions concerning the conveyance of units; the assignment of parking; an agreement for common area maintenance, including facilities, utilities, and landscaping; a proposed annual operating budget containing a reserve fund to pay major anticipated maintenance, repair, or replacement expenses; and an estimate of initial annual homeowners dues. The declaration of covenants, conditions, and restrictions shall also contain the following specific provisions:

(1) No trailers, boats, or recreational vehicles may be parked on the site.

(2) Vehicles may only be parked in designated parking areas.

(3) A provision establishing the obligation and duty of the governing body of the homeowners association to continually maintain the common areas in a manner which, at a minimum, ensures compliance with this Code, any conditions of approval, and all other applicable laws, regulations, and standards.

(4) A provision for annual assessments for maintenance and for capital improvements.

(5) CC&R provisions required to comply with the City's conditions of approval may not be modified without the City's consent.

#### **9-12.109 Special conditions of approval for condominium conversions**

(a) The following conditions are applicable to residential condominium conversions:

(1) Relocation Assistance. Following approval of the conditional use permit and tentative map, the applicant shall enter into an agreement with the City to provide each tenant household that vacates a unit with a relocation payment equal to three months rent for the unit currently occupied by that household. The relocation payment shall be paid at least thirty (30) days before the household vacates its unit. The applicant shall also provide active assistance in securing comparable replacement housing for each tenant who will be displaced.

(2) Extension of Lease or Rental Agreement for Certain Tenants. For tenant households that include a person over sixty-two (62) years of age or a disabled person, or if the household is a lower income household, the applicant shall extend the household's rental agreement or lease for one (1) year beyond the one hundred eighty (180)-day termination period specified in Section 9-12.107(h). For tenant households that include a dependent person attending kindergarten through Grade 12, if the one hundred eighty (180)-day termination period ends in the middle of a school year, then the applicant shall extend the household's rental agreement or lease until thirty (30) days after the end of the school year.

(3) Warranty. The applicant shall provide a warranty for a period of one year from the date of the sale of the last individual unit free of charge to the homeowners' association for all project components that are owned or maintained by the association. The warranty shall guarantee the condition of the common area items, including but not limited to roads, paving, drainage systems, landscaping, and recreational facilities. The warranty shall also guarantee the condition of all residential and/or common area structures, roofing, foundations, plumbing, electrical system, heating and ventilation, mechanical systems, and utilities. The City shall review and approve the form of the warranty prior to approval of the final map.

(4) Right to Purchase. In conformance with the Subdivision Map Act, the applicant shall provide each tenant with an exclusive right for a period of ninety (90) days to contract for the purchase of the tenant's unit upon the same terms that the unit will initially be offered to the general public, or on more favorable terms, as further described in Section 9-12.107(g).

(5) Building and Zoning Regulations. To the extent feasible, the residential condominium conversion shall substantially comply with the City's building and housing codes and zoning regulations in effect on the date the application for conversion is accepted as complete. All modifications needed to meet current sound attenuation and energy conservation standards shall be completed.

(6) Fire Safety. Each living unit shall be provided with approved smoke detectors as required by the Building Code.

(7) Storage. The project shall provide at least one hundred (100) cubic feet of enclosed, weatherproof, and lockable private storage space for each unit, exclusive of standard cabinets and standard closets within the unit and the space normally required for parking a vehicle in a garage. This space shall be for the sole use of the unit owner. The minimum opening shall be two and one-half (2.5) feet by four (4) feet and the minimum height shall be four (4) feet.

(8) Laundry Facilities. A laundry area, including space and utility connections for a washer and dryer, shall be provided in each unit, or laundry facilities shall be provided in common laundry space. Common facilities shall consist of at least one washer and dryer for each ten (10) units or fraction thereof.

(9) Private Open Space. Each unit shall have a minimum of one hundred (100) square feet of qualifying private open space. To qualify, open space must be private and directly accessible from the unit it serves, and must have a minimum dimension in every direction of ten (10) feet for open space provided at ground level or six (6) feet for open space provided on a balcony or elevated deck, and must be located outside the required front yard setback.

(b) The following conditions are applicable to all condominium conversions:

(1) Fire Protection Systems. All fire hydrants, fire alarm systems, portable fire extinguishers, and other fire protection appliances shall be retained in operable condition at all times and shall comply with the fire code requirements in place at the time the building was constructed. Any conversion involving an addition or major renovations of the structure shall substantially comply with the fire codes in effect on the date the application for conversion is accepted as complete.

(2) Utility Metering. The consumption of gas, electricity, and water within each unit shall be separately metered, and there shall be separate circuit breakers and shutoff valves for each unit.

(3) Parking. The number of parking spaces, including the provision of covered spaces and spaces for the disabled, shall meet current standards for the number of parking spaces, as provided in Chapter 4 of Title 9 of this Code. Spaces for the exclusive use of each unit shall be so marked. Visitor parking and special loading zones, if any, shall also be marked.

(4) Refurbishing and Restoration. All structures, common areas, sidewalks, driveways, landscaped areas, and facilities, if defective or in poor condition, shall be refurbished and restored to a safe and usable condition, and as otherwise required by the Planning Commission pursuant to the findings in the Property Condition Report.

(5) Lighting. Energy-efficient lighting providing adequate light levels as acceptable to the Police Department shall be installed in all parking areas and adjacent to exterior walkways. All lighting fixtures shall be selected, installed, and oriented to prevent glare.

**9-12.110 Exceptions to property improvement standards for condominium conversions.**

Upon request by an applicant, the Planning Commission may approve exceptions to the property improvement standards included in Section 9-12.109(a)(5) – (9) and Section 9-12.109(b) of this Code. The nature of the exception requested shall be described in public notices for Commission hearings on the condominium conversion. The Commission may approve exceptions to property development standards only after a public hearing and if the Commission can make the findings required by Section 11-9.02 of this Code.

**9-12.111 Special findings required for approval of condominium conversions.**

A conditional use permit for a condominium conversion may be approved only if the Planning Commission finds that the condominium conversion conforms to all provisions of this Chapter, including all conditions of approval required by Sections 9-12.108 and Section 9-12.109.

The following additional findings shall be made for residential condominium conversions:

(a) Prior to approval of the final map, the applicant has provided, or has made adequate provisions to provide, all notices required by this ordinance and by the Subdivision Map Act.

(b) The proposed conversion will not displace a significant number of lower income or moderate-income households or senior citizens, unless the same number of rental units, of the same size and number of bedrooms, at the same rents, and in the same physical condition are offered for rent in the City.

(c) The total number of residential rental units to be converted to condominiums in any calendar year does not exceed twenty-five percent (25%) of the number of newly constructed rental multiple dwelling units that were approved for occupancy in the City in the previous calendar year. For purposes of this finding, "rental multiple dwelling units" include only those dwelling units located in a multifamily structure which cannot be sold individually. This finding need not be made for residential condominium conversions of four units or less.

**ARTICLE 4. TENANT AND BUYER PROTECTIONS FOR RESIDENTIAL CONDOMINIUM CONVERSIONS**

**9-12.112 Tenants' rights.**

After the date of issuance of the Notice of Intent to Convert, each tenant in a proposed residential condominium conversion shall have the following rights with respect to the tenant's unit:

(a) Right to Terminate Lease or Rental Agreement. The tenant may terminate a lease or rental agreement, without penalty, upon thirty (30) days notice to the owner.

(b) No Unjust Eviction. Tenants who comply with the terms of their rental or lease agreements and with the written regulations of the rental property may not be evicted until the expiration of either the one hundred eighty (180)-day period specified in Section 9-12.107(h) or the extension described in 9-12.109(a)(2), whichever is later.

(c) Limitations on Rent Increases. After the applicant has issued the Notice of Intent to Convert, the rent for any dwelling unit shall not be increased for a one hundred eighty (180)-day period. After the expiration of the one hundred eighty (180)-day period, the rent for any tenant may not

be increased more than once annually, and such increase shall not exceed the rate of increase in the consumer price index for the same period.

**9-12.113 Reports to be furnished to prospective buyers.**

In addition to those reports required by State law and any other provisions of this Code, the applicant shall furnish each prospective purchaser of a dwelling unit with the following documents:

- (a) Property Condition Report
- (b) Approved conditional use permit, including all conditions of approval.

**Section 3.** Chapter 12, Condominium Conversions, of Title 11, Subdivisions, of the Atascadero Municipal Code, is hereby repealed.

**~~Chapter 12 CONDOMINIUM CONVERSIONS~~**

**~~11-12.01 Purpose and intent.~~**

**~~11-12.02 Applicability of other laws.~~**

**~~11-12.03 Provisions to govern condominium conversion projects.~~**

**~~11-12.04 Application requirements.~~**

**~~11-12.05 Acceptance of reports.~~**

**~~11-12.06 Copy of report to buyers.~~**

**~~11-12.07 Tenant provisions.~~**

**~~11-12.08 Hearing; Notification.~~**

**~~11-12.09 Application: Required findings.~~**

**~~11-12.10 Property improvement standards for condominium conversions.~~**

**~~11-12.11 Exceptions to property improvement standards~~**

**~~11-12.01 Purpose and intent.~~**

~~Condominiums, community apartments and stock cooperatives provide for ownership of separate dwellings, or equity coupled with a right of exclusive occupancy, as well as common areas within multiple family housing normally managed and maintained by an owner's association. This mix of individual and common ownership and the potential problems of converting existing apartments make special regulations necessary.~~

~~The City has determined that condominiums differ from apartments in some respects and, for the benefit of public health, safety and welfare, the conversion such projects should be treated differently from apartments.~~

~~These regulations are intended to:~~

- ~~(a) Establish requirements and procedures for the conversion of existing rental housing to residential condominiums and other forms of occupant housing;~~
- ~~(b) Provide for compliance with the Land Use Element and Housing Element of the City's General Plan;~~
- ~~(c) Assure purchasers of converted apartments are aware of the condition of the structure which is offered for purchase;~~
- ~~(d) Provide design and property improvement standards for condominium conversion projects;~~
- ~~(e) Maintain a healthy inventory of rental housing suitable for persons of low and moderate income.~~

**~~11-12.02 Applicability of other laws.~~**

All condominium projects shall be subject to all applicable provisions of the Subdivision Map Act and Titles 8 and 9 of this Code, and all other applicable state and local laws and ordinances.

#### **11-12.03 Provisions to govern condominium conversion projects.**

The procedures and standards contained in this chapter shall govern condominium conversion projects.

#### **11-12.04 Application requirements.**

The following shall be provided at the time of application for a condominium conversion:

(a) ~~Property Condition Report.~~ The application shall be accompanied by a property condition report. This report shall be in addition to and shall not replace any public report required by Government Code Section 66427.1(a) to be submitted to the Department of Real Estate. The property condition report shall include at least the following:

- ~~(1) A report detailing the condition of all elements of the property including foundations, ventilation, utilities, walls, roofs, windows, mechanical equipment, appliances which will be sold with the units, common facilities and parking areas. The report shall state, to the best knowledge of the applicant, and for each element: the date of construction, the condition, the expected useful life, the cost of replacement, and any variation from the zoning regulations in effect when the last building permit was issued for the subject structures. The report shall include evidence that the internal walls would meet current sound attenuation standards and that all current energy conservation standards are met. In the event the noise and energy standards are not currently met, the report shall explain proposed corrective measures to be used. The report shall identify all defective or unsafe elements or those which may impair use and enjoyment of the property, and explain the proposed corrective measures to be used. The report shall be prepared by or under the supervision of a registered civil or structural engineer, licensed general contractor, or architect;~~
- ~~(2) A report from a licensed pest control operator describing in detail the presence and effects of any wood destroying organisms;~~
- ~~(3) A report of any known soil or geological problems. Reference shall be made to any previous soil reports for the site.~~

(b) ~~Site Plan.~~ The application shall be accompanied by a site plan which shall include at least the following:

- ~~(1) The location, number of stories, number of dwellings, and proposed use of each structure to remain and for each proposed new structure;~~
- ~~(2) The location, use and type of surfacing for all open storage areas;~~
- ~~(3) The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas and curb cuts;~~
- ~~(4) The location and number of all covered and uncovered parking spaces;~~
- ~~(5) The location of all existing and proposed utility lines and meters;~~
- ~~(6) The location, height and type of materials for walls and fences;~~
- ~~(7) The location of all landscaped areas, the type of landscaping, method of irrigation, and a statement specifying private or common maintenance;~~
- ~~(8) The location and description of all recreational facilities;~~
- ~~(9) The location, size and number of parking spaces to be used in conjunction with each unit;~~
- ~~(10) The location, type and size of all drainage pipes and structures;~~
- ~~(11) Existing contours, building pad elevations and percent slope for all driveways and parking areas.~~

~~(c) Evidence of Delivery of Notice of Intent to Convert. The application shall be accompanied by signed copies from each tenant of the notice of intent to convert as specified in Government Code Section 66427.1. The applicant shall submit evidence that a certified letter of notification was sent to each tenant for whom a signed copy of the notice is not submitted.~~

~~(d) Maps. The application for conversion shall be accompanied by the maps required by the California Subdivision Map Act. Maps shall be processed in conformance with the applicable portions of this title. The tentative map application shall be accompanied by the declaration of covenants, conditions and restrictions, articles of incorporation, bylaws and contracts for the maintenance, management or operation of any part of the condominium conversion project, which would be applied on behalf of any and all owners of the condominium units within the project. In addition to the requirements of Civil Code Section 1355 and any requirements which might be imposed by the City consistent with these regulations, the organizational documents shall include provisions concerning the conveyance of units; the assignment of parking; an agreement for common area maintenance, including facilities and landscaping, an estimate of initial fees anticipated for such maintenance, an indication of responsibilities for maintenance of all utility lines and services for each unit. The covenants, conditions and restrictions document shall include a reference to an attached, updated property conditions report.~~

~~(e) Other Information. The application shall be accompanied by any other information which in the opinion of the Community Development Director will assist in determining whether the proposed project will be consistent with the purposes of these regulations.~~

#### **11-12.05 Acceptance of reports.**

~~The Community Development Director shall establish the final form of the property condition report required by this chapter. A copy of any public report submitted to the Department of Real Estate pursuant to Government Code Section 66427.1(a) shall also be submitted to the Community Development Department. Approved reports shall remain on file with the Community Development Department for review by interested persons.~~

#### **11-12.06 Copy of report to buyers.**

~~Each prospective purchaser shall be provided with a copy of all reports in their final form, except the signed notices of intent to convert, prior to entering escrow. Copies of the Property Condition Report shall be available at the sales office and the project site.~~

#### **11-12.07 Tenant provisions.**

~~(a) Notice of Intent to Convert. The applicant shall give each tenant a written notice of intent to convert at least one hundred eighty (180) days before termination of tenancy due to conversion. The notice shall contain at least the following:~~

- ~~(1) Name and address of current owner;~~
- ~~(2) Name and address of proposed subdivider;~~
- ~~(3) Approximate date on which the unit is to be vacated by nonpurchasing tenants;~~
- ~~(4) Tenant's right to purchase;~~
- ~~(5) Statement of no rent increase.~~

~~(b) Tenant's Right to Purchase. Pursuant to Government Code Section 66427.1(d), the applicant shall give any present tenant a nontransferable right of first refusal to purchase the unit occupied at a price no greater than the price offered to the general public. This right of first refusal shall~~

~~extend at least ninety (90) days from the date of issuance of the subdivision public report or commencement of sales, whichever date is later.~~

~~(c) Vacation of Units. Each nonpurchasing tenant not in default under the provisions of the rental agreement or lease under which he occupies his unit, shall have the right to remain not less than one hundred eighty (180) days from the date of receipt of notification of intent to convert.~~

~~(d) No Increase in Rents. A tenant's rent shall not be increased during the one hundred eighty (180) day period provided in subsection (c) of this section.~~

#### **11-12.08 Hearing: Notification.**

~~Prior to acting on applications, the Planning Commission shall hold a public hearing, notice of which shall be given tenants of the proposed conversion at least ten (10) days beforehand.~~

#### **11-12.09 Application: Required findings.**

~~An application for condominium conversion shall not be approved unless the following findings are made:~~

~~(a) All provisions of these regulations have been met or will be met;~~

~~(b) The proposed conversion is consistent with the General Plan;~~

~~(c) That there exists facts adequate to support the findings required under Sections 66473.5 and 66474 of the Government Code;~~

~~(d) The proposed conversion will not displace at significant number of low income or moderate-income households or senior citizens at a time when no equivalent housing is readily available in the City.~~

#### **11-12.10 Property improvement standards for condominium conversions.**

~~(a) Building and Zoning Regulations. Conversion projects shall substantially comply with the City's building and housing codes and zoning regulations in effect on the date the application for conversion is accepted as complete.~~

~~(b) Fire Safety. Each living unit shall be provided with approved smoke detectors mounted on the ceiling or wall at a point centrally located in the area giving access to rooms used for sleeping purposes.~~

~~(c) Fire Protection Systems. All fire hydrants, fire alarm systems, portable fire extinguishers and other fire protection appliances shall be retained in operable condition at all times and shall comply with the current City standard.~~

~~(d) Utility Metering. The consumption of gas, electricity, and water within each unit shall be separately metered and there shall be circuit breakers and shutoff valves for each unit.~~

~~(e) Storage. Each unit shall have provision for at least one hundred (100) cubic feet of enclosed, weatherproof and lockable private storage space, exclusive of cabinets and closets within the unit, and the space normally required for parking a vehicle in a garage. This space shall be for the sole use of the unit owner. The minimum opening shall be two and one half (2 1/2) feet by four (4) feet and the minimum height shall be four (4) feet.~~

~~(f) Laundry Facilities. A laundry area shall be provided in each unit, or in common laundry space. Common facilities shall consist of at least one (1) washer and dryer for each ten (10) units or fraction thereof.~~

~~(g) Parking. The number of parking spaces, including the provision of covered spaces, shall be as provided in the zoning regulations. Spaces for the exclusive use of each unit shall be so marked. Visitor parking and special stopping zones, if any, shall also be marked.~~

~~(h) Refurbishing and Restoration. All structures, common areas, sidewalks, driveways, landscaped areas, and facilities, if defective, shall be refurbished and restored to a safe and usable condition. All deficiencies shall be corrected prior to recordation of the final map.~~

~~(i) Private Open Space. There shall be provided with each unit a minimum of one hundred (100) square feet of qualifying private open space. To qualify, open space must be private and directly accessible from the unit it serves, and must have a minimum dimension in every direction of ten (10) feet for open space provided at ground level or six (6) feet for open space provided on a balcony or elevated deck, and must be located outside the required front yard setback. (Ord. 370 § 2 (part), 2000)~~

**11-12.11 Exceptions to property improvement standards.**

~~Upon request by a subdivider, the Planning Commission may approve exceptions to property improvement standards for conversion projects. The nature of the exception shall be described in public notices for Commission hearings on the condominium map. The Commission may approve exceptions on the request only after a public hearing. In order to approve an exception, the Planning Commission must make the exception findings required by Section 11-9.02.~~

**Section 4.** Section 11-2.09 of the Atascadero Municipal Code is hereby amended to read in full as follows:

"Condominium conversion" means ~~the conversion of property occupied under tenancies or estates other than condominium to occupancy as condominiums~~ the conversion of existing dwelling units that have been approved for occupancy and cannot be sold individually into a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project), or into any other ownership type in which the dwelling units may be sold individually; or the conversion of existing non-residential space into a common interest development as defined in Civil Code Section 1351.

**Section 5.** Section 11-4.02 of the Atascadero Municipal Code is hereby amended to read in full as follows:

**Section 11-4.02 Filing of Tentative Map; Application; Condominium Conversion**

~~The tentative map application shall be filed with the Community Development Department and shall be prepared in accordance with these regulations, the Subdivision Map Act and the Subdivision Guidelines and Standards Manual. The application shall be accompanied as many copies of the tentative map as may be required by the Community Development Director. Any application for a tentative map for a condominium conversion or for any condominium project or other common interest development, as defined in Civil Code Section 1351, shall be accompanied by an application for a conditional use permit as required by Chapter 12 of Title 9, Planning and Zoning.~~

**Section 6.** All other provisions and sections of the Atascadero Municipal Code in effect on the days preceding the passage of this ordinance shall remain in full force and effect upon passage of this ordinance.

**Section 7.** This ordinance shall not be interpreted in any manner in conflict with controlling provisions of State law, including without limitation, the Constitution of the State of California. If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

**Section 8.** The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it or a summary of it to be published in the *Atascadero News*, a newspaper published and circulated in the City of Atascadero; and thereupon and thereafter this Ordinance shall take effect and be in force according to law.

INTRODUCED at a regular meeting of the City Council held on November 27, 2007, and PASSED and ADOPTED by the City Council of the City of Atascadero, State of California, on \_\_\_\_\_, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

\_\_\_\_\_  
Marcia McClure Torgerson, C.M.C., City Clerk

\_\_\_\_\_  
Dr. George Luna, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Brian Pierik, City Attorney