



# **CITY COUNCIL AGENDA REPORT**

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MEETING DATE: APRIL 3, 2007

ITEM NUMBER: \_\_\_\_\_

**SUBJECT: AN INTERIM URGENCY ORDINANCE PLACING A MORATORIUM ON THE APPROVAL OF RESIDENTIAL CONDOMINIUM CONVERSIONS**

**DATE: APRIL 2, 2007**

**FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION**

**PRESENTATION BY: KIMBERLY BRANDT, AICP, ACTING ASSISTANT DEV. SVS. DIRECTOR**

**FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT, (714) 754-5604**

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## **RECOMMENDATION:**

Mayor Pro Tem Bever recommends adoption of the attached interim urgency ordinance establishing a moratorium on the approval of any conversion of existing apartments into residential condominiums.

## **BACKGROUND:**

Mayor Pro Tem Bever requested that staff prepare for Council's consideration a proposed moratorium on the approval of any conversions of existing apartments to residential condominiums (common interest developments). This request was prompted by Planning Commission denial on March 26, 2007 of a planning application to convert an existing 4-unit apartment project to condominiums located at 679 West 18<sup>th</sup> Street. This application generated considerable debate at the Commission hearing and, at the conclusion of the hearing, on a 3-2 vote (Egan and Hall voting no) the Commission denied the conversion request.

This request was also prompted by the large number of applications the City has been processing. Since January 2006, the City has considered 20 projects to convert a total of 171 units to residential condominiums; all but 19 projects were ultimately approved. Currently, there are 11 pending applications; four of which are complete and scheduled for public hearings.

## **ANALYSIS:**

**Conversion Requirements and Concerns:** Currently, these requests are reviewed through a discretionary review process called a Residential Common Interest Development Conversion. This process allows staff and the Planning Commission to review conversion requests against current development standards for new condominium projects, and to require certain property upgrades and improvements. Code also allows the Commission to deny a residential conversion if the critical vacancy rate for apartments falls below 3%. Attachment B contains the existing Zoning Code requirements for this type of request.

In addition to Code requirements, staff has compiled a standard list of conditions of approval for condominium conversions that are intended to ensure quality improvements to properties. See Attachment C.

One of the major concerns expressed by the Planning Commission is the issue of non-conforming parking. Many, if not all of the City's older apartment complexes are nonconforming when compared to today's parking requirements, and typically there is a limited amount of open space area on the property to add new parking stalls. Additionally, the overall age of some of the apartment complexes has been a concern, and whether or not the proposed improvements are sufficient enough to ensure the long-term viability of the structures.

**Interim Urgency Ordinance:** Government Code Section 65858 allows cities to establish moratoriums to prohibit approval of certain uses in order to protect the public health, safety, and welfare. This is accomplished by the adoption of an interim urgency ordinance following a four-fifths vote of the City Council. The initial moratorium is limited to 45 days, but can be extended to a total time period of two years following additional notice and hearings, and the filing of a report which documents the progress being made to address the issue which resulted in the moratorium. This report and the notices must be completed at least ten days prior to the hearing to extend the moratorium.

The attached interim urgency ordinance has been drafted to meet the requirements of Section 65858 to establish a moratorium on the approval of conversions of existing apartments to residential condominiums. The ordinance prohibits the approval of any subdivision, use permit, variance, or any other applicable entitlement for the subdivision of existing apartments into condominiums. Establishment of the moratorium will allow staff time to further review and revise conditions of approval and develop possible code amendments to address appropriate upgrades and conformance issue for conversion of apartments into common interest developments.

### **ALTERNATIVES CONSIDERED:**

The immediate alternatives available to City Council are to adopt or not to adopt the interim urgency ordinance. As noted earlier, should Council wish to proceed with the moratorium, a four-fifths vote will be required.

If the ordinance is adopted, Planning Staff will initiate a study to review alternative means to address the issue related to residential condominium conversions. This will include additional review criteria and development standards which could be used to further evaluate these requests.

Should City Council not wish to move forward with a moratorium, but still wish to develop additional review procedures and standards, staff is ready to initiate the same level of study as noted above following appropriate Council direction without benefit of a moratorium.

### **FISCAL REVIEW:**

This draft ordinance does not require any fiscal review

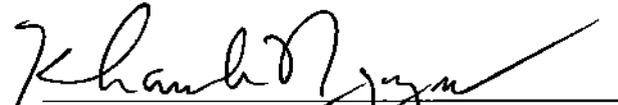
### **LEGAL REVIEW:**

The attached draft interim urgency ordinance was prepared by the City Attorney's Office and approved as to form.

**CONCLUSION:**

Adoption of the attached draft interim urgency ordinance will establish a moratorium which will allow time to develop and enact additional development standards and review criteria to evaluate future requests for conversions throughout the City.

  
KIMBERLY BRANDT, AICP  
Acting Assistant Dev. Svs. Director

  
KHANH NGUYEN  
Acting Deputy City-Mgr. – Dev. Svs.  
Director

DISTRIBUTION: City Manager  
Asst. City Manager  
City Attorney  
Deputy City Manager – Dev. Svs. Dir.  
Public Services Director  
City Clerk (2)  
Staff (4)  
File (2)

ATTACHMENTS: 1 Draft Interim Urgency Ordinance  
2 Existing Zoning Code Provisions  
3 Standard Conditions of Approval

|                                  |              |                 |
|----------------------------------|--------------|-----------------|
| File Name: 040307ResidCondoConv. | Date: 040207 | Time: 9:30 a.m. |
|----------------------------------|--------------|-----------------|

**ATTACHMENT 1**

**DRAFT INTERIM URGENCY ORDINANCE**

**ORDINANCE NO. \_\_\_\_\_**

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA PLACING A MORATORIUM ON THE APPROVAL OF ANY SUBDIVISIONS, USE PERMITS, VARIANCES, OR ANY OTHER APPLICABLE ENTITLEMENT WHICH WOULD ALLOW FOR EXISTING MULTI-FAMILY APARTMENT UNITS TO BE SUBDIVIDED OR CONVERTED INTO RESIDENTIAL CONDOMINIUMS IN THE CITY OF COSTA MESA.**

WHEREAS, the City Development Services staff has been reviewing and revising conditions of approval and preparing proposed code amendments for consideration of the City Council regarding standards for conversion of existing apartment complexes into condominiums in order to ensure quality building standards and appropriate upgrading of such properties to bring them into as much conformity as possible with current building and zoning standards at the time of conversion; and

WHEREAS, the City Council recognizes the substantial investment that families must make when buying homes and wishes to ensure that their investments in aging multi-family units converted to for sale units will be protected; and

WHEREAS, due to market factors, demographic changes, and aging of apartment and other rental housing stock in the City, several applications have been submitted, processed, and/or approved for conversion of existing multi-family apartments into residential condominiums over the past approximately 24-month period; and

WHEREAS, the City Council is concerned that continued conversions of multi-family apartments into residential condominiums without ensuring that such projects are brought as close as possible into compliance with existing building and zoning codes while preserving and creating for-sale housing stock in the City will jeopardize the investment of families in these homes and will result in a decrease in available quality housing stock rather than an increase in quality housing stock in the community; and

WHEREAS, the City's current zoning code requires compliance with additional development standards through the City's discretionary review process for residential condominium conversions, City staff and the City Council believe that additional development standards are necessary, and wish to ensure that the additional development standards and possible conditions of conversion are in place, to ensure that non-conforming properties are brought to current building and zoning codes to the maximum extent possible and to ensure that the residential condominium units created from such conversions are habitable, do not contain latent defects and deterioration which will undermine the investment of families in these units and impair the long-term vitality of the City's ownership housing stock; and

WHEREAS, City staff has indicated that while it has begun the process of studying and preparing proposed amendments to the City's zoning codes regarding residential condominium conversions, the process to complete implementation of such code amendments, including public hearings before the Planning Commission and City Council and orderly adoption of appropriate code revisions following the public hearing process, will take another three to six months;

WHEREAS, the City Council finds that there is a current and immediate threat to the public health, safety, or welfare from the approval of entitlements or permits relating to residential condominium conversions of existing multi-family residential units in the City; and

WHEREAS, the City Council finds that a moratorium temporarily prohibiting the issuance of subdivisions, use permits, variances, or any other applicable entitlement which would allow for residential condominium conversions for existing multi-family apartment units in the City would best serve the public health, safety, and welfare, while the City conducts necessary research into the adequacy of the existing conditions of approval, development standards, and methods for ensuring that conversions of existing multi-family apartment units into condominiums create high quality housing and bring the converted multi-family properties as close to conformity to existing zoning and building codes as is reasonably possible.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDAIN AS FOLLOWS:

Section 1.

1. In order to protect the public health, safety, and welfare and pursuant to the provisions of California Government Code Section 65858, a moratorium is hereby placed on the following:

The approval of any subdivision, use permit, variance, or any other applicable entitlement for the subdivision of existing multi-family apartments into residential condominiums in the City of Costa Mesa

2. This moratorium shall be effective immediately upon adoption and shall remain in effect for forty-five (45) days, but may be extended after notice, pursuant to California Government Code Section 65090, and public hearing, for an additional period of ten (10) months and fifteen (15) days and subsequently extend the interim ordinance for one (1) year, when findings are made that there is a current and immediate threat to public health, safety, or welfare, pursuant to California Government Code Section 65858(c).

3. This urgency is based on the following facts:
- (a) The City has recently received, processed and/or approved several condominium conversion applications for multi-family apartment complexes.
  - (b) City Staff has been in the process of developing and revising conditions of approval and possible code revisions to address appropriate upgrades and conformance issues for conversion of multi-family apartments into ownership condominium housing.
  - (c) The conversion of existing multi-family residential units into residential condominiums without ensuring the upgrade and conformity of the properties to current zoning and building codes to the maximum extent feasible may have a detrimental impact on the ability of present and future property owners to preserve their substantial financial investments in their family home and may have a detrimental impact on the City's ability to preserve and expand the City's residential housing stock.
  - (d) The current development standards in place in the City of Costa Mesa relating to conversion of existing multi-family residential units to condominiums are inadequate to ensure that these conversions meet the highest standards feasible to preserve and protect ownership housing in the City.
  - (e) The City of Costa Mesa requires time to complete its comprehensive study of the adequacy of the current standards, conditions of approval and assessment process for residential condominium conversions.
  - (f) The public health, safety, and general welfare require implementation of a moratorium to ensure that the City's zoning codes are strengthened to ensure that homes created from such conversions are habitable, and do not contain latent defects and deterioration which will undermine the investment of families in these units and impair the long term vitality of the City's ownership housing stock.

Section 2. Environmental Determination. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

Section 3. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 4. The City Clerk shall certify to the passage and adoption of this ordinance, by at least a four-fifths vote of the City Council, and shall cause the ordinance to be published in the manner required by law. This ordinance shall become effective immediately from and after its passage.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk of the  
City of Costa Mesa

\_\_\_\_\_  
City Attorney

STATE OF CALIFORNIA)  
COUNTY OF ORANGE) ss  
CITY OF COSTA MESA)

I, Julie Folcik, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 07\_\_ was introduced, considered section by section, and adopted at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2007 by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this \_\_\_\_ day of \_\_\_\_\_, 2007

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City Clerk and ex-officio  
Clerk of the City Council of the  
City of Costa Mesa

**ATTACHMENT 2**

**EXISTING ZONING CODE REGULATIONS**

**ARTICLE 2. COMMON INTEREST DEVELOPMENTS**

**Sec. 13-39. PURPOSE**

The purpose of this article is to regulate the placement of residential common interest development projects consistent with the form of ownership and occupancy of such projects pursuant to applicable laws for the general health, safety and welfare of the public.

**Sec. 13-40. PLANNING APPLICATION REQUIRED**

- (a) Common interest development projects are permitted in appropriate residential or planned development zones, subject to the approval of the following planning application, as applicable. This requirement is in addition to other permits or certificates required by law.
  - (1) All new residential common interest development projects shall be processed according to the design review procedures contained in CHAPTER III PLANNING APPLICATIONS.
  - (2) Conversion of occupied or previously occupied apartment complexes to residential common interest development projects shall be subject to Section 13-42 RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS and shall be processed according to the residential common interest development conversion procedures contained in CHAPTER III PLANNING APPLICATIONS.
  - (3) Conversion of newly constructed residential complexes, that have never been occupied, to residential common interest development projects shall be subject to Section 13-41 NEW RESIDENTIAL COMMON INTEREST DEVELOPMENTS and shall be processed according to the design review procedures contained in CHAPTER III PLANNING APPLICATIONS.
  - (4) All residential common interest development projects require the approval of tentative or final tract or parcel maps as required by law. A tentative tract map or parcel map shall not be required until either a development review or residential common interest development conversion has been approved; however, the map may be processed concurrently.
- (b) No person shall construct, sell, lease, convey, maintain or use a common interest development project within the City without first complying with the provisions of this article.

**Sec. 13-41. NEW RESIDENTIAL COMMON INTEREST DEVELOPMENTS**

- (a) **Applicability.** The provisions of this section shall apply to all proposed new residential common interest development projects.
- (b) **Development standards.** Table 13-41(b) identifies the development standards for common interest developments. See also ARTICLE 9 GENERAL SITE IMPROVEMENT STANDARDS of this chapter for additional requirements. Projects shall comply with all applicable standard plans and specifications and adopted City and State codes, as well as the following provisions:
  - (1) The location and orientation of all buildings shall be designed and arranged to preserve natural features by minimizing the disturbance to the natural environment. Natural features such as trees, groves, waterways, scenic points, historic spots or landmarks, bluffs or slopes shall be delineated on the site plan and considered when planning the location and orientation of buildings, open spaces, underground services, walks, paved areas, playgrounds, parking areas and finished grade elevations.
  - (2) All structures proposed to be constructed within a project shall conform to the following requirements:
    - a. Structures having dwelling units attached side by side shall avoid the long-row effect

### **Costa Mesa Zoning Code**

- by being composed of no more than 6 dwelling units. Alternative designs which accomplish the same purpose may be approved by the Planning Division.
- b. Structures having dwelling units attached side by side shall avoid the long-row effect with a break in the facade by having an offset in the front building line of at least 4 feet for every 2 dwelling units within such structure. Alternate designs which accomplish the same purpose may be approved by the Planning Division.
  - c. Consideration shall be given to the effect of proposed development on the light, air and privacy of adjacent properties.
- (3) Outside uncovered and unenclosed storage of boats, trailers, recreational vehicles and other similar vehicles shall be prohibited unless specifically designated areas for the exclusive storage of such vehicles are set aside on the final master plan and provided for in the association's covenants, conditions, and restrictions. Where such areas are provided, they shall be enclosed and screened from view on a horizontal plane from adjacent areas by a combination of 6-foot high opaque fences and permanently maintained landscaping.
  - (4) For high-rise residential projects, see the North Costa Mesa Specific Plan for additional development standards.
  - (5) The developer shall install an on-site lighting system in all parking areas, vehicular access ways, and along major walkways. The lighting shall be directed onto driveways and walkways within the project and away from dwelling units and adjacent properties, and shall be of a type approved by the Development Services Department.
  - (6) Reserved.

**Costa Mesa Zoning Code**

**TABLE 13-41(b)**

**COMMON INTEREST DEVELOPMENT STANDARDS**

| STANDARDS                                   | SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)  | OTHER UNITS   |
|---|--|---|
| Individual Dwelling Unit Minimum Lot Area   | All zones: 3,000 square feet with an overall average of 3,500 square feet. The required common lot shall not be included in the calculation of lot area. Note: Lot sizes may be reduced proportionately if other useable open space is provided within the overall development.  | No minimum requirement.   |
| Common lot required                         | All projects shall be designed with a minimum of one lot to be held in common ownership and maintained by a homeowners association. This lot shall be used for common driveways, parking areas, and at least 10 feet of street setback landscaped areas.   |   |
| Maximum Number of Stories & Building Height | 2 stories/ 27 feet, except as allowed in the Planned Development or Town Center zoning districts.<br>Note: Lofts, as defined in section 13-6, without exterior access and having only clerestory windows will not be regarded as a story. See also Attic discussion below.   |   |
| Attics                                      | Attics shall not be heated or cooled, nor contain any electrical outlets or operable windows. In zoning districts where the maximum number of stories is two stories, attics above second stories shall be an integral part of the second story roofline and not appear as a 3 <sup>rd</sup> story on any building elevation. Windows in any attic space above the second story shall be incidental and limited to a dormer style. |   |
| Maximum Density (based on gross acreage)    | Same as underlying zoning district or as specified in an applicable specific plan.   |   |
| Minimum Open Space<br>Development Lot:      | 40% of total lot area. <i>Exception:</i> For high-rise residential projects, see the North Costa Mesa Specific Plan.   |   |
| Individual Dwelling Unit Lot:               | 40% overall, with a minimum 400 square-foot area with no dimension less than 15 feet.  | Not applicable.   |
| Private Open Space:                         | Same as individual dwelling unit lot above.  | An adjoining patio required with no dimension less than 10 feet. <i>Exception:</i> Not applicable to high-rise residential projects in the North Costa Mesa Specific Plan.  |
| Common Open Space                           | Common open space areas shall be designed and located within the development to allow maximum use by all residents. Enclosed buildings used for recreation or leisure facilities should not be used to satisfy more than 15 per cent of required open space.   |   |
| Distance between buildings                  | 10-foot minimum between main buildings<br>6-foot minimum between main buildings and accessory structures   |   |
| Driveway width                              | 10-foot minimum, except 16-foot minimum driveway is required if the driveway serves tenants and/or guest parking for more than one dwelling unit.  |   |
| Driveway length                             | Straight-in driveways to garages shall have a minimum length of 19-feet from the ultimate property line.   |   |
| Storage                                     | Not applicable.  | Each unit shall be provided with 200 cubic feet of securable storage exterior to the unit. If this storage is provided within the garage or carport it shall be located so as not to obstruct the required clear dimensions of the covered parking space (per the City of Costa Mesa Parking Design Standards) at any point less than 4 feet above the finished surface level of the parking stall. <i>Exception:</i> Not applicable to high-rise residential projects in the North Costa Mesa Specific Plan. |

**Costa Mesa Zoning Code**

**TABLE 13-41(b)**

**COMMON INTEREST DEVELOPMENT STANDARDS**

| STANDARDS   | SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)  | OTHER UNITS   |
|---|--|---|
| Mechanical equipment, excluding antennas and flush-mounted solar panels on roofs .  | Roof-top location is prohibited.   | Screening required from public rights-of-way and adjacent properties. |
| <b>SETBACKS FOR MAIN BUILDINGS AND ACCESSORY BUILDINGS AND STRUCTURES (Minimum distances given, unless otherwise noted. All setbacks from streets to development lots are measured from the ultimate property line shown on the Master Plan of Highways).</b> |  |   |
| Front<br>Development Lot:   | 20 feet  | 20 feet   |
| Individual Dwelling Unit Lot:   | None   | Not applicable  |
| Side (interior)<br>Development Lot:   | 5 feet   |   |
| Side (street side, if applicable)<br>Development Lot:   | 10 feet<br>Note: Driveways providing straight-in access from a public street to a garage shall be at least 19 feet long, as measured from the property line.   |   |
| Rear (not abutting a publicly dedicated alley)<br>Development Lot:  | 20 feet for 2 story structures in R2-MD and R2-HD zones; 15 feet for 2 story structures in the R-3 zone.<br>10 feet for 1 story structures (15-foot maximum height) provided that maximum rear yard coverage is not exceeded. <i>Exception:</i> Rear yard coverage does not apply to the R-3 zone.<br><i>Note:</i> Accessory structures that do not exceed 15 feet in height may have a zero rear yard setback, except on corner lots.<br>Corner lots in the R2-MD, R2-HD & R3 zones:<br>a. Where the rear property line of a corner lot adjoins the side property line of another lot, no detached accessory structure shall be allowed on the corner lot, except within the rear quarter of the corner lot farthest from the side street.<br>b. Where the rear property line of a corner lot abuts a public or private street, accessory structures shall maintain setbacks for main structures. |   |
| Rear Yard Coverage (Maximum) in the R2-MD and R2-HD zones   | Main Buildings: 25% of rear yard area.*<br>Accessory Buildings: 50% of rear yard area.*<br>* Rear yard area equals lot width, measured from side property line to side property line, multiplied by 20 feet.   |   |
| Rear Abutting a Publicly Dedicated Alley  | 5 feet; however, garages may be required to set back further to ensure adequate back up distance. Rear Yard Coverage does not apply.<br><i>Note:</i> Accessory structures that do not exceed 15 feet in height may have a zero rear yard setback, except on corner lots where accessory structures shall maintain setbacks for main structures.  |   |
| Bluff Top Setback   | No building or structure closer than 10 feet from bluff crest (see Section 13-34 BLUFF-TOP DEVELOPMENT).   |   |

**Costa Mesa Zoning Code**

**TABLE 13-41(h)**

**COMMON INTEREST DEVELOPMENT STANDARDS**

| <b>STANDARDS</b>  | <b>SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)</b>                         | <b>OTHER UNITS</b>            |
|---|--|-------------------------------|
| <b>PROJECTIONS (maximum depth of projections given)</b>   |  |                               |
| Roof or Eaves Overhang;<br>Awning   | 2 feet 6 inches into required side setback or building separation area.<br>5 feet into required front or rear setback. |                               |
| Open, unenclosed stairways.   | 2 feet 6 inches into required setback or building separation area.   |                               |
| Chimneys  | 2 feet above maximum building height.  |                               |
| Fireplaces  | 2 feet into required setback or building separation area.  |                               |
| <b>PARKING (See Chapter VI).</b>  |  |                               |
| 2-car garage required.  | Yes  | Not required.                 |
| Automatic garage door opener required.  | Yes  | Yes, if garages are provided. |
| <b>LANDSCAPING</b>  |  |                               |
| A detailed landscape plan prepared pursuant to CHAPTER VII LANDSCAPING STANDARDS shall be approved by the Planning Division prior to issuance of any building permits.  |  |                               |
| Landscape parkways with a combined width of 10 feet, but not less than 3 feet on one side, shall be provided along the sides of interior private streets and/or common driveways. The parkway on the house side of private streets or common driveways shall be a minimum of 5 feet in width. |  |                               |
| <b>SIGNS (See Chapter VIII).</b>  |  |                               |
| <b>POOLS AND SPAS</b>   |  |                               |
| Above-ground pools and spas shall not be located in the required front yard setback from a public street and are subject to 5-foot side and 10-foot rear yard setbacks for main structures. Additional setbacks may be applicable pursuant to building code requirements.                     |  |                               |
| <b>FENCES AND WALLS</b>   |  |                               |
| Fences and walls placed between the property line and required setback line for main buildings shall conform the City's walls, fences, and landscaping standards.<br>See ARTICLE 9 GENERAL SITE IMPROVEMENT STANDARDS of this chapter for further information.                                |  |                               |

## Costa Mesa Zoning Code

### (c) Documents required.

- (1) A project may be approved subject to submission of all organizational documents setting forth a plan or manner of permanent care and maintenance of open spaces, recreational areas and common facilities pursuant to State law (Civil Code 1350-1359). No such documents shall be acceptable until approved by the City Attorney as to legal form and effect, and by the Planning Division as to suitability for the proposed use of the open areas.
- (2) The developer shall file a declaration of covenants to be submitted with the application for approval, that will govern the association. The provisions shall include, but not be limited to, the following:
  - a. The homeowners' association shall be established prior to the sale of any unit(s).
  - b. Membership shall be mandatory for each buyer and any successive buyer.
  - c. Provisions to restrict parking upon other than approved and developed parking spaces and to require that garages be kept open and available for tenant parking shall be written into the covenants, conditions and restrictions for each project.
  - d. If the development is constructed in increments or phases which require one or more final maps, reciprocal covenants, conditions, and restrictions and reciprocal management and maintenance agreements shall be established which will cause a merging of increments as they are completed, and embody one homeowners' association with common areas for the total development.
  - e. The declaration of covenants shall contain language or provisions substantially as follows:
    - i. "The covenants, conditions and restrictions of this declaration shall run to the City of Costa Mesa insofar as they shall apply to the maintenance of the "common areas" as herein defined.
    - ii. "In the event the association or other legally responsible person(s) fail to maintain the common area in such manner as to cause same to constitute a public nuisance, the City may, upon proper notice and hearing, institute summary abatement procedures and impose a lien for the costs of such abatement upon the common area, individual units or the whole thereof as provided by law.

**Sec. 13-42. RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS**

- (a) **Applicability.** The provisions of this section shall apply to all conversions of occupied or previously occupied apartments or other similar existing developments to residential common interest developments proposed on a real property within the appropriately zoned districts. These provisions are in addition to those set forth in Section 13-41 NEW RESIDENTIAL COMMON INTEREST DEVELOPMENTS.
- (b) **Findings and critical vacancy rate applicable.**
- (1) The City Council finds and declares that, when the vacancy rate for apartments being offered for rent or lease in the City is equal to or less than the critical vacancy rate as established in subsection (c), that a housing shortage exists. A housing shortage is inconsistent with the declared goals and objectives of the Housing Subelement of the General Plan.
  - (2) The City Council further finds that the conversion of existing apartment buildings into common interest development projects may diminish the supply of rental housing and displace residents unreasonably.
  - (3) To avoid the foregoing problems and to reduce the displacement of long-term residents, particularly senior citizens and low- and moderate-income families and families with school-age children, the City Council finds and declares it necessary and proper to regulate such conversions by the provisions herein for the health, safety, and welfare of the general public. The Planning Division shall present to the Planning Commission vacancy statistics from the most recent data compiled by either the U.S. Department of Housing and Urban Development or other governmental agency. The Planning Commission shall determine the apartment vacancy rate for the City based on the most current data available.
- (c) **Critical vacancy rate.** The City Council hereby establishes that the critical vacancy rate is 3 per cent.
- (d) **Inspection fee.** There shall be an inspection fee, established by the Building Division, to determine compliance of the existing units with all appropriate building codes.
- (e) **Documents required.** The following documents are required in addition to those set forth in Section 13-41(c) NEW RESIDENTIAL COMMON INTEREST DEVELOPMENTS. To the extent applicable, the following report requirements may be satisfied by submission of copies of similar reports filed with State agencies.
- (1) Applicant shall provide written proof of compliance with the requirements of applicable State statutes regarding the rights of existing tenants of the project.
  - (2) Applicant shall submit a detailed "property report" describing the date(s) of original construction, present useful life of the roof, foundations, mechanical, electrical, plumbing and existing buildings or structures in the project. The report shall be prepared and certified to by a registered civil or structural engineer or licensed architect.
  - (3) The applicant shall submit a structural pest report prepared and certified by a licensed structural pest control operator (see State Business and Professions Code Section 8516).
- (f) **Review procedures.** The following are processing requirements in addition to those set forth in CHAPTER III PLANNING APPLICATIONS.
- (1) Upon receipt of the application and all required documents, the Planning Division shall submit copies of applicable reports or documents to the Fire Department, Building Safety Division and other appropriate departments.

### **Costa Mesa Zoning Code**

- (2) The Development Services Director shall require an inspection of all buildings and structures in the existing development. An inspection report shall be prepared at or under his/her direction identifying all items found to be in violation of current code requirements for such buildings or structures, or found to be hazardous.
- (3) The Fire Marshal shall inspect the project to determine the sufficiency of fire protection systems serving the project and report on any deficiencies.
- (4) The Planning Division may submit copies of such documents required in subsections (2) and (3) to other departments for their review and requirements.
- (5) The Planning Division shall review the property report submitted by the applicant and may require its revision and resubmission if found inadequate in providing the required information.
- (6) The Planning Division shall keep and maintain the copies of all required reports, as public records, for no less than 5 years, and shall send copies to the California Real Estate Commissioner as may be required by law.
- (7) A final inspection report shall be made by the Building Official, upon request of the applicant, indicating the compliance with all the imposed requirements.

**(g) Approval criteria.**

- (1) The Planning Commission shall utilize the development standards and requirements of this article as criteria in the approval of the conversion as herein provided.
- (2) No residential common interest development conversion shall be approved until all required documents have been submitted, reviewed and found to comply with the provisions of applicable State law and this Zoning Code.
- (3) All dwelling units may be required to comply with current requirements for energy insulation, sound transmission control and fire detection systems.

**ATTACHMENT 3**  
**STANDARD CONDITIONS OF APPROVAL**

## Standard Conditions of Approval for Condo Conversions

### Exterior Requirements:

1. In conjunction with project plan check review and approval, submit two (2) sets of detailed landscaped and irrigation plans which comply with Municipal Code requirements regarding landscaping materials and irrigation including % turf, number of trees and shrubs, etc., and provision of benderboard or other separation between turf and shrub areas.
2. Require exterior façade improvements that are similar to the Residential Guidelines—belly banding, window treatments, and application of siding treatments, etc. to enhance overall appearance.
3. Provide decorative pavement at driveway entry and other key paved areas.
4. The exterior of all building elevations should be completely repainted (unless recently painted within 1 or 2 years of application submittal). At a minimum two colors should be used- three colors recommended.
5. Install energy efficient exterior doors and windows on all building elevations.
6. Provide 200 cubic feet of exterior storage for every unit.
7. Screen any existing or proposed roof-top mechanical equipment.
8. Underground overhead power line connections, if feasible.
9. Install rain gutters on all appropriate building elevations.
10. Replace any broken sidewalks, driveways, or other hardscape improvements.
11. Repair, replace, or construct interior property walls and/or fences.
12. Screen open parking spaces pursuant to the Municipal Code, in consultation with the Planning Division.
13. Screen onsite trash dumpsters/trash bins from the public right-of-way, in consultation with the Planning Division
14. Screen utility meters, pedestals, etc. from the public right-of-way in consultation with the Planning Division.
15. *For properties with nonconforming number of parking spaces onsite and the site contains excess open space:* Provide additional parking spaces where feasible in consultation with the Planning Division.

### Interior Requirements:

1. Replace all appliances, water heater, and light fixtures with Energy Star (or better) rated appliances/fixtures, including a programmable heating system, unless the applicant demonstrates that the existing appliances, etc. are energy efficient.
2. All water heaters shall be placed appropriately on a platform and strapped.
3. Provide appropriate wiring for internet/cable connections.
4. Provide a washer/dryer hook-up in either the interior of every unit or within the garage area (provided it does not interfere with interior dimension requirements for garages).
5. Provide appropriate interior separation of any common attic space areas.
6. Upgrade attic insulation to the maximum extent feasible.
7. All required smoke detectors shall be hardwired.

**City of Costa Mesa**  
**Standard Conditions of Approval for Residential Common Interest Development Conversion Applications**

*The following conditions of approval are typically applied to Residential Common Interest Development Conversion applications. Please review all of the conditions and indicate below whether or not your proposal will be able to comply with each respective condition. In addition, provide further descriptive information on this form or refer to information shown on the conceptual plans submitted in conjunction with your planning application, where necessary.*

**Exterior Requirements:**

1. In conjunction with project plan check review and approval, submit two (2) sets of detailed landscaped and irrigation plans which comply with Municipal Code requirements regarding landscaping materials and irrigation including % turf, number of trees and shrubs, etc., and provision of benderboard or other separation between turf and shrub areas.

Proposal complies? (circle one) YES NO Describe below or indicate on site plan.

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2. Require exterior façade improvements that are similar to the Residential Guidelines—belly banding, window treatments, and application of siding treatments, etc. to enhance overall appearance.

Proposal complies? (circle one) YES NO Describe below or indicate on elevation plans.

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3. Provide decorative pavement at driveway entry and other key paved areas.

Proposal complies? (circle one) YES NO Describe below or indicate on site plan.

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4. The exterior of all building elevations should be completely repainted (unless recently painted within 1 or 2 years of application submittal). At a minimum two colors should be used- three colors recommended.

Proposal complies? (circle one) YES NO Describe below or indicate on elevation plans.

---

5. Install energy efficient exterior doors and windows on all building elevations.

Proposal complies? (circle one) YES NO Describe below or indicate on elevation plans.

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6. Provide 200 cubic feet of exterior storage for every unit.

Proposal complies? (circle one) YES NO Describe below or indicate on site plan.

---

7. Screen any existing or proposed roof-top mechanical equipment.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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8. Underground overhead power line connections, if feasible.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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9. Install rain gutters on all appropriate building elevations.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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10. Replace any broken sidewalks, driveways, or other hardscape improvements.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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11. Repair, replace, or construct interior property walls and/or fences.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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12. Screen open parking spaces pursuant to the Municipal Code, in consultation with the Planning Division.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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13. Screen onsite trash dumpsters/trash bins from the public right-of-way, in consultation with the Planning Division

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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14. Screen utility meters, pedestals, etc. from the public right-of-way, in consultation with the Planning Division.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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15. *For properties with nonconforming number of parking spaces onsite and the site contains excess open space:* Provide additional parking spaces where feasible, in consultation with the Planning Division.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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**Interior Requirements:**

1. Replace all appliances, water heater, and light fixtures with Energy Star (or better) rated appliances/fixtures, including a programmable heating system, unless the applicant demonstrates that the existing appliances, etc. are energy efficient.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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2. All water heaters shall be placed appropriately on a platform and strapped.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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3. Provide appropriate wiring for internet/cable connections.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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4. Provide a washer/dryer hook-up in either the interior of every unit or within the garage area (provided it does not interfere with interior dimension requirements for garages).

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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5. Provide appropriate interior separation of any common attic space areas.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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6. Upgrade attic insulation to the maximum extent feasible.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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7. All required smoke detectors shall be hardwired.

Proposal complies? (*circle one*) YES NO Describe below or indicate on site plan.

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