

ORDINANCE NO. 2548
(ZOA-06-680005 – CONDOMINIUM CONVERSION ORDINANCE)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND TITLE 19 OF THE HENDERSON MUNICIPAL CODE AMENDING SECTION 19.7.2, USE STANDARDS, TO UPDATE THE ORDINANCE TO REVISE GUIDELINES AND DEVELOPMENT REGULATIONS FOR TOWNHOUSE AND CONDOMINIUM CONVERSIONS AND OTHER MATTERS RELATED THERETO.

- WHEREAS, City Council has received or expects to receive requests for townhouse and condominium conversions within Henderson's boundaries; and
- WHEREAS, City Council finds that it is in the best interest of the public to permit the conversion of apartments and townhouses to condominiums within Henderson's boundaries; and
- WHEREAS, it is the intent of Henderson to permit the conversion of apartments and townhouses to condominiums within Henderson's boundaries; and
- WHEREAS, it is the intent of the City Council to protect and promote the public health, safety, and welfare by regulating the conversion of apartments and townhouses to condominiums.

THEREFORE, the City Council of the City of Henderson, Nevada, does ordain as follows:

SECTION 1. Henderson Development Code Section 19.7.2, Use Standards, is hereby amended as follows:

Sec. 19.7.2.H Townhouse and Condominium Conversions

3. Condominium Conversion Standards

- [a. Compliance with Zoning, Building, Housing, Mechanical, and Fire Codes. All units, as well as the common ownership facilities, shall be brought into compliance with all applicable state and local zoning, building, housing, mechanical, and fire codes adopted for use by the City unless, upon approval of the Community Development Director and the Director of Building and Safety and prior to recordation of the final map or parcel map, funds have been adequately escrowed to assure completion of such corrective work prior to the closing of escrow of any unit in the project.]

a. Application Filing

Applications for condominium conversion shall be submitted to the Community Development Director. Concept plan review shall be required prior to application submittal, in accordance with Sec.19.2.1.P.

[b. Private Storage Space

Each unit shall have at least 200 cubic feet of enclosed, weatherproofed, and secured private storage space outside the living area of the unit.]

b[c]. Parking Requirements

The project shall conform to all applicable parking requirements of Sec. 19.10.1.

[d]. Sound Transmission Characteristics and Energy Conservation

The following methods shall be used to regulate noise transmission:

- (1) Shock Mounting of Mechanical Equipment: All permanent mechanical equipment, such as motors, compressors, pumps, and compactors that are determined by the Director of Building and Safety to be a source of structure vibration or structure-borne noise shall be shock-mounted in inertia blocks or bases and/or vibration isolators in a manner approved by the Director of Building and Safety.
- (2) Noise Mitigation and Energy Conservation: Energy conservation insulation shall be installed in all heated or cooled buildings, including common ownership structures used for assembly purposes. Common walls and a common floor/ceiling between units shall be constructed to meet a sound transmission coefficient (STC) rating of 50 or higher.]

c [e]. Utilities, Location, and Metering

The purpose of this section is to ensure that the utility services are provided in accordance with all local utility requirements.

- (1) Location: Each dwelling unit shall be served by gas and/or electric services [completely within the lot lines or ownership space of each separate unit]. No common gas or electrical connection or service shall be allowed. Easements for gas and/or electric lines shall be provided in the common ownership area where lateral service connections shall take place.
- (2) Undergrounding: All new on-site and off-site minor utilities except switch boxes, transformer boxes, and cap banks across property frontage shall be underground.
- (3) Metering: Each dwelling unit that provides gas and/or electric service shall be separately metered for gas and/or electricity. [Individual panel boards for electrical current shall be provided for each unit.] A plan for the equitable sharing of communal water metering and other shared utilities shall be included in the covenants, conditions, and restrictions.

d [f]. Refurbishing [and], Restoration and Fire Protection

- (1) All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, and landscaped areas shall be refurbished and restored [as necessary to achieve a high standard of appearance, quality, and safety] to meet the minimum standards of the

City Building Code at the time the building was constructed.

- (2) Smoke detectors shall be installed within dwelling units and designed to operate in accordance with the applicable Code. Smoke detectors shall be interconnected, shall receive their primary power from the building wiring, and shall be equipped with a battery backup. Within sleeping rooms in accessible units or within designated accessible units, smoke detectors shall include a visual notification device to notify hearing-impaired occupants.

e [g]. Contingency Fees

Per NRS 116.310395, the developer shall create [The intent of the City in requiring the creation of] a contingency or reserve fund for condominium conversions [is] to provide a surety for unexpected or emergency repairs to common areas in the interest of the economic, aesthetic, and environmental maintenance of the community, as well as to protect the general welfare, public health, and safety of the community. Upon the close of escrow for each unit, the applicant shall convey to the property owners' association's contingency fund a minimum fee of \$200 per dwelling unit. When 50 percent or more of the total units in the project has been sold, the applicant, within 30 days, shall convey such fee for each of the unsold units. Such funds shall be used solely and exclusively as a contingency fund for emergencies that may arise relating to open-space areas, exterior portions of dwelling units, and such other restoration or repairs as may be assumed by the property owners' association.

f. Property Owner's Association

Prior to recordation of a final map, the applicant shall submit a copy of the Owner's Association's (i.e., Property Owner's Association or Landscape Maintenance Association) articles of incorporation to include association name, officers, addresses, and (if applicable), resident agent to the Community Development and Neighborhood Services Departments.

g. Limits of Ownership

Developer shall establish a restrictive provision in the condominium by-laws that limits to two the number of units that may be owned by any one person or entity. The wording of the restriction shall read substantially as follows, and be approved by the City Attorney prior to map recordation. "At no time shall title and ownership of more than two units be vested in or held by the same natural person or persons, their agents, assigns, heirs or nominees, or by any corporation, trust organization or other entity, their agents, assigns or nominees. Amendment of the foregoing restrictive provision may be made only by a majority of condominium owners after all units have been sold in accordance

with the restrictive provision." A copy of the recorded CC&Rs shall be submitted to the Community Development Department prior to map recordation. The purpose of the provision is the City's effort to ensure the goal of the developer is achieved, which is to maintain the condominium project as a residential condominium with maximum occupancy by resident owners rather than lessees.

4. Conversions

In addition to the requirements and procedures set forth in other sections of this Development Code, applicants for conversions shall provide the following information and comply with the regulations required by this section.

a. Rental History and Project Profile

A statement of specific information concerning characteristics of the project, consisting of the following:

~~[(1)~~ Rental history for each unit for the previous three years.]

~~(1[2])~~ Monthly vacancy rate for the development during the preceding three years.

~~(2[3])~~ Proposed sale price of each unit.

~~(3[4])~~ Proposed property owners' association fee.

~~[(5)~~ Statistical data on all tenants including name, address, age, family relationships, handicaps, and other information pertinent to the ability of the tenant to move or purchase.]

~~(4)~~ Summary of units that meet the criteria set forth by Section 19.7.2.H.4.h Special Cases for Extended Lease Arrangements.

b. Building and Grounds Condition Report

The subdivider shall provide, at his or her own expense and in a format acceptable to the City, a Building and Grounds Condition Report prepared by a licensed civil engineer or licensed architect. The Building and Grounds Condition Report shall be provided to the Director of Building and Fire Safety and the Community Development Director. This report shall contain the following information:

(1) An evaluation of the [structural] condition of each building in the project, to include estimate of life expectancy of building components and systems (roof, exterior finishes, mechanical equipment, and appliances). Building components and systems with less than a five-year life expectancy shall be replaced prior to occupancy by the purchasing tenant.

(2) An evaluation of the condition of all site features such as parking areas, accessory buildings, landscaped areas, driveways, sidewalks, carports, any amenities, fences, and utility systems.

~~(3)~~ Provide certification that all electrical, mechanical, plumbing, and fire/life safety systems are maintained in

safe working order under the Building Codes when the buildings were constructed. Report shall also include any notices of manufacturer recall(s).

(4) Copy of this report shall be provided to each prospective buyer of a converted unit prior to opening an escrow account.

(5) Any deficiencies shall be corrected prior to recordation of a final map.

[c. Review

The Building and Grounds Condition Report shall be reviewed by the Director of Building and Safety and the Community Development Director to determine if the conditions found are satisfactory, repairable or unrepairable.]

c[d]. Recommendation

The Community Development Director, in conjunction with the Public Works Director and Director of Building and Fire Safety, then shall evaluate the structures and grounds and make a recommendation as to what alterations to the buildings and grounds are necessary to ensure that any converted complex does not place an undue financial burden on the property owners' association. Alterations that are required immediately shall be performed prior to final subdivision map approval. In the event an alteration does not require immediate completion, but will be necessary within three years of the date of final subdivision map approval, the Community Development Director, in consultation with the Public Works Department, shall deposit in an account the estimated cost of the alteration in an amount sufficient to cover the cost for the use of the property owners' association [estimate the cost of the alteration, and the developer shall deposit the estimated cost in an account or security bond in an amount sufficient to cover the cost for the use of the property owners' association].

This information and evaluation will be incorporated into the planned unit development permit review process for City Council evaluation.

d[e]. Noticing Requirements [Tenant Safeguards]

(1) A notice of intent to convert shall be delivered to each tenant by certified mail within 15 days after the planned unit development application [tentative subdivision map] is filed with the Community Development Director.

(2) The form of the notice shall be approved by the Community Development Director, or designee thereof, and shall contain the following information:

(a) Name and address of current owner.

(b) Name and address of proposed subdivider.

- (c) Approximate date on which the final subdivision map is to be filed.
 - (d) Notice of tenant's right of first refusal.
 - (e) Notice of tenant's approximate vacation date.
 - (f) Notice of tenant's right to receive a relocation cost payment [moving expenses].
 - (g) Notice of special cases for extended lease arrangements.
 - (h) Notice of tenant's right to vacate the unit 120 days from the recordation of the final map.
 - (3) The applicant shall submit a notarized certificate of mailing, including a list of all tenants that were noticed, to the Community Development Director within 15 days after the planned unit development application is filed.
 - (4) Any and all subsequent tenants shall be notified prior to lease signing of all items listed in section 2 (a-h).
- e[f]. Tenant's Right of First Refusal
Any present tenant(s) of any unit shall be given a nontransferable right of first refusal to purchase the unit occupied, at the price offered the public. The right of first refusal shall extend for a period of at least 90 days after final map approval or initial offering for sale, whichever is later in time.
- f[g]. Vacation of Units
Each non-purchasing tenant not in default under the obligation of the rental agreement or lease under which the unit is occupied shall have not less than 120 days from the recordation of the final map [the date of City Council approval of the final subdivision map] to vacate the premises.
- g[h]. [Special Cases] Extended Lease Arrangements
(1) Any non-purchasing tenant age 62 or older, or handicapped, shall be offered in writing [given upon written request] an extended lease of six months for each year he or she has resided in the project, [but] not [more than] to exceed five years. This lease will stipulate that the monthly rent on the unit so leased will increase only as much as the Consumer Price Index for the Western States, U.S. city average, all goods, all urban consumers, as calculated by the Bureau of Labor Statistics of the U.S. Department of Labor, or its successor index, herein referred to as CPI [as formulated by the United States Department of Labor]. Any non-purchasing tenant [agent] with two or more children under the age of 18 residing in the unit [shall be given,] shall be offered in writing [if requested,] the same lease arrangements. The offer in writing shall be sent to the applicable non-purchasing tenants with the NRS-required 120-day notice to vacate.

- (2) A tenant's rent shall not be increased within two months prior to a project application, nor shall rent be increased by more than the CPI for two years from the time of the filing of the project application or until relocation takes place.

h[i]. Relocation Cost Payment [Moving Expenses]

The subdivider shall provide a one-time relocation cost payment of two times the monthly rent or \$2,000, whichever is greater, per unit, for all existing tenants whose tenancies have been terminated for the purpose of converting or selling their units, [moving expenses to any tenant who relocates from the building] after receipt of the NRS-required 120-day notice to vacate [notification] from the subdivider, [according to the following schedule based on the specified notification length of tenancy on the date of receipt of notification:]

Nothing in this section shall serve to excuse a landlord from any obligation to reimburse a tenant security deposit. Relocation fees shall be paid to tenants no later than 90 days following the NRS-required 120-day notice to vacate.

***[Codification NOTE ONLY: REMOVE EXISTING
RELOCATION EXPENSES TABLE]***

i. Tenant Incentives

The following incentives shall be offered by the subdivider to tenants of the affected conversion:

- (1) The developer shall not penalize those tenants who wish to break their lease following receipt of the NRS-required 120-day notice to vacate.
- (2) The developer shall refund the security deposits of all tenants who relocate from the property following receipt of the NRS-required 120-day notice to vacate. However, the refund is subject to all lease provisions excluding any penalties for tenant-initiated termination. Developers shall comply with all requirements regarding refunding as provided by NRS. If the tenant enters into a lease at one of the developer's other rental properties, the security deposit will be applied towards the new apartment home subject to any deductions allowed by the lease.
- (3) No later than 90 days following the NRS-required 120-day notice to vacate, the developer shall provide to the tenants a current list of city of Henderson apartment rental properties that have vacancies within the same general price range as the proposed conversion.
- (4) The developer shall contribute 2 percent of the sales price towards closing costs for any existing tenants who purchase a unit within the development.

- (5) For those tenants who are disabled, the developer shall establish a program where the units occupied by disabled tenants shall be offered to investor purchasers. Rents shall not increase until the end of the lease and then could only be increased at a rate no greater than the rate of increase of the CPI. This will allow the tenants to continue to occupy their units while paying rent to the new owner.
- (6) Working with Neighborhood Services, the developer shall host a "Home-Buyer Fair" at the property no later than 30 days after the NRS-required 120-day notice to vacate has been issued. This event shall give tenants the opportunity to meet with various lenders and City of Henderson representatives to learn about the programs available.
- (7) Developer shall reserve a minimum of 10 percent of the total number of units being converted to condominiums within the project boundaries as affordable/workforce attainable units (units affordable to households earning less than 120 percent of the Clark County Area Median Income). No less than 50 percent of these units shall be affordable as defined by HUD. Affordable units shall be distributed throughout the buildings within the project. The developer shall record a deed restriction on these affordable units to ensure their continued affordability.
- (8) Developer shall provide \$200.00 for each unit being converted to a condominium to the Condominium Incentive Fund (CIF) with the Neighborhood Services Department for its costs incurred in monitoring compliance with the obligations set forth within this section and in providing technical assistance to assist non-purchasing tenants in their relocation. This fee is to be paid to the City of Henderson at the sale of each unit.

j.

Required Finding of Fact

The City Council shall not approve an application, nor shall applications be accepted for, the conversion of apartments to townhouses or condominiums unless the City Council finds that[:] the current rental housing vacancy rate is above 5 percent in the Clark County area, as determined by the Center for Business and Economic Research (CBER) Quarterly Report.

- [(1) All provisions of this section are met.
- (2) The proposed conversion is consistent with the policies of the *Comprehensive Plan*.
- (3) The proposed conversion will not create a shortage of rental housing such that an imbalance between rental and ownership housing exists.
- (4) The current rental housing vacancy rate is above 5 percent in the Clark County area.

- (5) The overall design and physical condition of the condominium conversion does not adversely impact the health, safety, and welfare of the community.】

k. Considerations for Approval

City Council approval of an application for the conversion of apartments to condominiums shall be based upon consideration of all the following criteria:

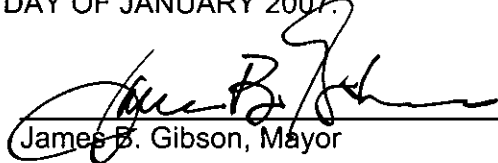
- (1) Compliance with all provisions of this section.
- (2) Consistency with the policies of the Comprehensive Plan.
- (3) Determination that the proposed conversion will not create a shortage of rental housing such that an imbalance between rental and ownership housing exists.
- (4) Determination that the overall design and physical condition of the condominium conversion does not adversely impact the health, safety, and welfare of the community.

SECTION 2. If any section, subsection, paragraph, clause or provision of this Ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section or subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 3. All ordinances, or parts of ordinances, sections, subsection, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Henderson Home News, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on January 4, 2007 in the Henderson Home News.

PASSED, ADOPTED, AND APPROVED THIS 2nd DAY OF JANUARY 2007.


James B. Gibson, Mayor


ATTEST:

Monica M. Simmons, CMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on December 19, 2006, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

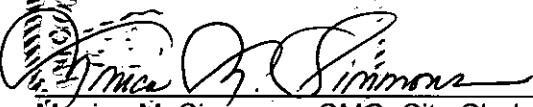
“COUNCIL AS A WHOLE”

Thereafter on January 2, 2007, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held January 2, 2007, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye: James B. Gibson, Mayor
Councilmembers:
Jack Clark
Amanda Cyphers
Arthur “Andy” Hafen
Steven D. Kirk

Those voting nay: None
Those abstaining: None
Those absent: None


James B. Gibson, Mayor

ATTEST:

Monica M. Simmons, CMC, City Clerk