

Chapter 16.28 CONDOMINIUM AND COMMUNITY APARTMENT AND PLANNED DEVELOPMENT
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PLANNED DEVELOPMENT SUBDIVISIONS**

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16.28.010 Intent and purpose.

The rules and standards set forth in this chapter shall apply to a subdivision initially created as condominium units or community apartments or planned development; the conversion of an existing multi-family unit to a condominium or community apartment; and the conversion of an existing industrial or commercial building to a condominium. In addition, all such projects shall meet all environmental and zoning laws of the city, including, but not limited to, a minimum land area of one acre for each such project.

(Prior code § 9-1.810)

16.28.020 Definitions.

For the purpose of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Association" means the person who owns a condominium or right of exclusive occupancy in a community apartment unit.

"Common area" means the entire project, excepting all units therein.

"Community apartment" means an estate in real property consisting of individual interests in common in a parcel or real property and in the improvement therein, coupled with the right of exclusive occupancy for residential purposes of an apartment located thereon.

"Community apartment project" means a community apartment containing two or more apartments to which there is the right of exclusive occupancy for residential purposes.

"Condominium" means an estate in real property consisting of an interest in common in a portion of a parcel of real property, together with a separate interest in space in a residential, industrial or commercial building on such real property, such as an apartment, office or store. A condominium may include in

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addition a separate interest in other portions of real property. Such estate, with respect to the duration of its enjoyment, may be either:

1. An estate of inheritance or perpetual estate;
2. An estate for life; or
3. An estate for years, such as a leasehold or subleasehold.

"Conversion" means a change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined as a condominium project or a community apartment project, regardless of the present or prior use of such land or structures and whether improvements have been made or are to be made to such structures.

"Condominium project" means a condominium containing two or more condominiums for residential, commercial or industrial purposes.

"Organizational documents" means the declaration of covenants, conditions and restrictions, articles of incorporation, bylaws and any contract for the maintenance, management or operation of all or any part of a project (commonly called the CC&R's).

"Project" means the entire parcel of real property divided or to be divided, into condominium or community apartments, including all structures thereon.

"Recreational open space" means the open space on the project that complies with all the applicable zoning provisions.

"Unit" means the elements of a condominium that are not owned in common with the owners of other condominiums in the project or an apartment in a community apartment project to which the owner has a right of exclusive occupancy.

(Prior code § 9-1.815)

16.28.030 Tentative maps required.

The tentative map shall contain all the information required on a tentative map for any subdivision, plus the following:

- A. The location indicated to the nearest one foot of the perimeter of the building or buildings in relationship to the parcel boundaries;
- B. The estimated square footage of each unit;
- C. The general layout of all common areas;
- D. The general layout and location of all facilities and amenities provided within the common area for the use and enjoyment of the unit owners;
- E. The general layout of all parking areas, spaces and driveways;
- F. The public areas proposed for dedication, the scenic easements proposed and the land or money in lieu of land, for park purposes; and
- G. The tree and landscaping removal or proposed planting.

(Prior code § 9-1.820)

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16.28.040 Additional requirements for conversions.

The subdivider for a conversion shall include with the tentative map the following additional information:

- A. A report from the building official advising if the dwelling units would be eligible for the issuance of certificates of occupancy and if ineligible, what deficiencies have to be corrected. Prior to the council approval of the final map, all the dwelling units shall have been issued certificates of occupancy;
- B. A report describing the condition of and estimating the remaining useful life of the following elements: central or community heating and air conditioning systems, roofs, paved surfaces, hot water heaters and, where they are reasonably accessible for inspection, other electrical, mechanical and plumbing equipment. The report shall be prepared by a contractor or engineer who is licensed in the element he or she is reviewing;
- C. A report disclosing the amount of the deposit provided by the subdivider and the manner in which it was calculated to defray expenses to be incurred by the association replacing major mechanical and electrical equipment;
- D. A structural pest control report prepared by a licensed pest control operator pursuant to Section 8516 of the Business and Professions Code of the state; and
- E. The subdivider's proposed program to accommodate the existing tenants of units to be converted, with specific reference to relocation assistance availability of substitute accommodations and the notice of termination of tenancy and a statement of any sale preference to present tenants, together with evidence of each tenant's receipt of a notice complying with the Subdivision Map Act of the state.

(Prior code § 9-1.825)

16.28.050 Standards of development.

Except as otherwise provided in this chapter, the standards of the zoning provisions, this code and the general plan, including the housing element thereof if a residential subdivision, shall apply. Parking shall be provided within the project boundaries at no less than two spaces per dwelling unit.

(Prior code § 9-1.830)

16.28.060 Utilities.

Each unit shall be separately metered for utility services. Whenever practical, each unit shall be directly connected to a public utility and the owner or occupancy shall be billed directly for each utility service.

(Prior code § 9-1.835)

16.28.070 Organizational documents.

There shall be required covenants, conditions and restrictions (CC&R's) and the formation of an association or corporation for the purpose of managing and maintaining the project.

The CC&R's shall state that the city has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so and to assess the costs to the association, corporation

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or individual unit owners. In order to accomplish this, the CC&R's shall contain the following typical statements:

- (a) In the event the Board fails to maintain the exterior portions of the common area so that the owners, lessees and their guests suffer or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety and welfare of the residents of the project, the City of Colfax, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain the exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence the correction of such conditions in no more than thirty (30) days from the delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Colfax within thirty (30) days of written demand. Upon failure by the Board to pay within said thirty (30) days, the City of Colfax shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.
- (b) It is understood that, by the provisions hereof, the City of Colfax is not required to take any affirmative action and any action undertaken by the City of Colfax shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare and to enforce it and the regulations and ordinances and other laws.
- (c) It is understood that action or inaction by the City of Colfax, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any provisions of these restrictions or any of the rules, regulations and ordinances of the City or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by any other action.
- (d) It is further understood that the remedies available to the City by the provisions of this section or by reason of any other provisions of law shall be cumulative and not exclusive and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy.
- (e) The City Council of the City of Colfax, at any time, may relinquish its rights and interest in the project as herein set forth by appropriate resolution, any such relinquishment by the City Council shall be effective on the date the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within ten (10) days after the receipt of a copy of resolution.
- (f) The above five paragraphs cannot be amended or terminated without the consent of the Colfax City Council.

(Prior code § 9-1.840)

16.28.080 Information to precede final map submission.

The following information shall be submitted for review prior to the submittal of the final map:

- A. A copy of the applicant's proposed application for a subdivision permit, in the event a permit is required, from the Department of Real Estate of the state;
- B. The proposed sale price of each unit and the terms of any proposed bonus or discount to initial purchasers or present residents;
- C. A statement of the proposed monthly maintenance charge for each unit; and

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- D. A report describing the manner in which the terms of the declaration of restrictions will guarantee responsible maintenance and repair of the common areas, notwithstanding the escalation of costs, emergency repairs and the replacement of major mechanical and electrical equipment.

(Prior code § 9-1.845)

16.28.090 Preparation and form of parcel maps and final maps.

A parcel map shall be required for all condominium apartment projects of four or less units. Where five or more condominium or community apartments are being created, a final map will be required. In addition to the other requirements for the certificate sheet, the title shall contain in bold letters an indication that this is a condominium or community apartment or planned development.

(Prior code § 9-1.850)