

ORDINANCE NO. 2015-14

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING AN AMENDMENT TO ARTICLE
49 OF THE ESCONDIDO ZONING CODE
REGARDING AIR SPACE CONDOMINIUMS
AND COMMUNITY APARTMENT PROJECTS

PLANNING CASE NO.: AZ 15-0001

WHEREAS, the City Council desires to promote condominium and community apartment projects that are well-designed and in excellent physical condition, while streamlining the approval process and reducing costs for commercial and industrial condominium projects that can be processed administratively with a tentative parcel map and public noticing; and

WHEREAS, the Escondido General Plan was adopted on May 23, 2012, by the City Council, and includes Small Business and Entrepreneurialship Policy 3.2 regarding the identification and removal of obstacles to the formation and expansion of local businesses;

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. That the City Council has reviewed and considered the Notice of Exemption prepared for this project on May 21, 2015, in conformance with Title 14 California Code of Regulation, California Environmental Quality Act ("CEQA") Section

15061(b)(3) "General Rule", and has determined that all environmental issues have been addressed and finds that no significant environmental impact will result from approving these code amendments.

SECTION 3. That upon consideration of the Factors to be Considered, attached as Exhibit "A" to this Ordinance and incorporated by this reference; all public testimony presented at the hearing held on this project; and all other oral and written evidence on this project, this City Council finds the Zoning Code Amendments to be consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 4. That specific sections of one (1) Article of the Escondido Zoning Code Chapter 33 are amended as set forth in and attached as Exhibit "B" to this Ordinance and incorporated by these references.

SECTION 5. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 6. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15

days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

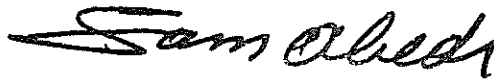
PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 8th day of July, 2015 by the following vote to wit:

AYES : Councilmembers: DIAZ, GALLO, MORASCO, ABED

NOES : Councilmembers: NONE

ABSENT : Councilmembers: MASSON

APPROVED:



SAM ABED, Mayor of the
City of Escondido, California

ATTEST:



DIANE HALVERSON, City Clerk of the
City of Escondido, California

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO : ss.
CITY OF ESCONDIDO)

I, DIANE HALVERSON, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2015-14 passed at a regular meeting of the City Council of the City of Escondido held on the 8th day of July, 2015, after having been read at the regular meeting of said City Council held on the 24th day of June, 2015.



DIANE HALVERSON, City Clerk of the
City of Escondido, California

ORDINANCE NO. 2015-14

EXHIBIT "A"
FACTORS TO BE CONSIDERED
AZ 15-0001

1. The public health, safety and welfare would not be adversely affected by the proposed Zoning Code amendment. The revised code would eliminate the requirement for new commercial and industrial condominium projects to obtain a condominium permit, but these projects would still be subject to the provisions of the Subdivision Map Act and City public noticing requirements. No physical improvements are proposed as part of this code amendment.
2. The proposed Zoning Code Amendment would not be detrimental to surrounding properties, since it is a citywide code that implements Small Business and Entrepreneurialship Policy 3.2 to identify and remove obstacles to the formation and expansion of local businesses, where appropriate. Commercial and industrial condominium projects would still be subject to the relevant building and fire codes, as well as to the development standards of the underlying zoning district (setbacks, floor area ratios, etc.)
3. The proposed amendment would be consistent with the General Plan, since no land uses or policies would be amended or impacted, and it would implement the Small Business and Entrepreneurialship Policy regarding removing obstacles to the formation and expansion of local businesses. The code amendment would also achieve a goal in the City's "Working Together to Get to Yes" program, which was developed to address one of the "Economic Development" items in the 2013-2014 City Council Work Program.

ARTICLE 49. AIR SPACE CONDOMINIUM AND COMMUNITY APARTMENT PROJECTS

Note

* Prior history: Zoning Code, Ch. 109, §§ 1097.01—1097.05 and 1097.10—1097.21 as amended by Ord. No. 93-14.

Sec. 33-950. Applicability.

The procedures set forth in this article shall be utilized for all new condominium projects in all zones within the City of Escondido. The conversion of residential units into condominium ownership shall be subject to supplemental standards as applicable. It shall apply to condominiums as defined in Section 783 of the Civil Code, community apartment projects and stock cooperatives as defined in Sections 11003.2 and 11004, of the Business and Professions Code, and to the conversion of existing structures to condominiums, community apartment projects or stock cooperatives. For the purpose of this article, community apartment projects and stock cooperatives shall be synonymous with the term condominium or condominium conversion, as appropriate. The requirements of this chapter are in addition to subdivision ordinance requirements contained in Chapter 32. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-951. Condominium or condominium conversion application.

(a) Permit required for new condominium projects and conversions to condominium ownership.

A condominium permit and design review shall be required for all condominiums to be constructed or for existing buildings to be converted to condominiums in the City of Escondido. Application for a condominium permit shall be made to the city council, through the planning division and planning commission in accordance with procedures set forth in this chapter. The director of community development shall prescribe the form and content of applications. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

(b) Exceptions to required permits. The following projects are not required to process a condominium permit through this article:

- (1) Condominiums requested concurrently with a planned development application pursuant to Article 19.
- (2) Condominiums requested concurrently with resident purchase of mobilehome parks pursuant to section 32-401 of Article 4 of Chapter 32, subdivisions.
- (3) Condominiums requested for a non-residential development entitlement application in conformance with the California Subdivision Map Act, and subject to the following provisions:
 - (A) The project is not a mixed-use development that includes residential units.

- (B) A maintenance and replacement program, as well as a contingency fund is provided to adequately address required improvements to the satisfaction of the director of community development (for conversion projects only)
- (C) The developer files with the city, a declaration of covenants, conditions and restrictions pursuant to section 33-1108.
- (D) Public notice of the condominium project complies with section 33-1300(b) and (c).

Sec. 33-952. Commission action.

The planning commission shall review the application for a condominium permit and recommendation of the planning division. A public hearing on the application shall be held in accordance with Division 6 of Article 61 of this chapter, and a recommendation shall be forwarded to the city council. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05; Ord. No. 2011-19R, § 5, 1-11-12)

Sec. 33-953. Findings of commission and council.

In order to grant a condominium permit, the city council shall find that:

- (a) Except as specifically addressed in section 33-955 of this article, the project meets current zoning, design review, drainage, engineering, fire protection, seismic and building code requirements as if the project were newly constructed. However, the conversion of existing legal nonconforming multifamily residential developments to condominium units is exempt from current density requirements providing no increased density is proposed. Conversion requests may also utilize the same administrative adjustment procedures available to new construction as specified in the underlying zone;
- (b) Required upgrades or modifications correcting a nonconforming condition may be permitted notwithstanding the provisions of section 33-1243 of this code, if the project otherwise conforms to applicable criteria;
- (c) Residential projects will contain architectural and site-planning features commonly found in projects that maintain a majority of owner-occupied units;
- (d) The project provides sufficient parking commensurate with its location and design;
- (e) The project's open space is well-designed, properly distributed, and does not unreasonably restrict disabled access;
- (f) The project conforms to the general plan and applicable zoning provisions. However, a conversion to residential condominiums may occur notwithstanding the fact that

existing densities exceed currently permitted general plan densities provided no additional units are proposed;

(g) The project’s maintenance and replacement program adequately addresses required improvements and appears to be sustainable;

(h) That all tenant notification and information, as required by the California Subdivision Map Act, this chapter, and the City of Escondido subdivision ordinance has been, or will be provided; and

(i) That provisions have been made for the timely release of security deposits and provision of rental payment history reports if requested by existing residential tenants. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-954. City council action.

After the submission of a formal recommendation by the planning commission, the city council shall review the application and recommendation during a public hearing held in accordance with Division 6 of Article 61 of this chapter, and shall approve, modify or disapprove the action of the planning commission. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-955. Development standards.

Condominiums approved and authorized by the city council shall be developed or upgraded to comply with the city’s current design review, building, seismic, drainage, engineering, zoning and fire protection standards for new construction. Limited departures, in accordance with applicable building code provisions, may be granted for condominium conversions providing that proposed conditions will substantially conform to current requirements, feasible upgrades have been provided, and no health and safety issues will exist.

Condominium permit approvals shall comply with the findings outlined in section 33-953 of this article. Additionally, minimum standards for residential condominium units include the following:

(a) Minimum square footages as follows:	
Studio	600 square feet
One-bedroom units	700 square feet
Two-bedroom units	800 square feet
Three-bedroom units	1000 square feet
Additional bedrooms	150 square feet for each additional bedroom

(b) Washer and dryer hook-ups in each unit.

(c) Minimum of eighty (80) cubic feet of private storage area for each unit with minimum dimensions of at least two feet. Said storage shall be in addition to normally expected cabinets and closets. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-956. Physical element report.

As part of the application submittal for any requested conversion to condominium ownership, a building and site evaluation report shall be submitted to the planning division, detailing compliance with current zoning, building, engineering, seismic, drainage and fire codes, the condition of existing improvements, and a schedule for recommended replacement and upgrades. Each report shall evaluate approved project plans as well as as-built conditions. It shall identify and assess any exceptions from current codes and recommend remedial measures. The report shall include estimated remaining useful life and replacement cost of roofs, driveways, foundations, plumbing, electrical, heating, air conditioning, and other mechanical and structural systems. The report shall also document the presence or absence of lead-based paint and asbestos and outline mitigation as appropriate. It shall also evaluate the potential for incorporating arc-fault circuit interrupters, GFCI outlets per the current California Electrical Code, and sleeping room egress door or window openings that conform to current code requirements. Each component of the report shall be prepared by a professional engineer or qualified professional licensed in each subject area they address.

Requests for condominium conversions shall not be deemed complete until the following has been completed:

- (a) A copy of the completed physical inventory report has been distributed to existing tenants.
- (b) A minimum two (2) week comment period has been provided.
- (c) All copies of resident responses have been submitted to the city. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-957. Contingency fund deposit.

The applicant is hereby required to establish a fund and deposit with the owners' association, a minimum sum of one thousand dollars (\$1,000.00) per unit in any condominium conversion project. Higher per unit deposits may be required based on the condition of the facility, the nature of the required improvements, and the number of condominium units. Said deposit shall be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of units, and such other restoration or repairs as may be assumed by the owners' association or management corporation. Said funds shall be administered by the city until the unit owners take majority control of the association. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-958. Improvement security.

All required modifications and upgrades required of the condominium permit shall be secured and bonded or completed prior to recordation of the final subdivision map, to the satisfaction of the director of community development and city attorney. All necessary improvements shall be installed to the satisfaction of the director of community development prior to granting occupancy. The installation of improvements and grant of occupancy may be phased on a building-by-building basis consistent with the associated final subdivision map. Required security may be released incrementally as building occupancies are granted. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-959. Covenants, conditions and restrictions.

The developer shall be required to file with the city, a declaration of covenants, conditions and restrictions, pursuant to section 33-1108. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-960. Expiration and extensions.

The expiration or extension of a condominium permit shall be concurrent with the accompanying tentative map and in accordance with Chapter 32 of this code. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-961. Modifications.

Minor changes to a proposed condominium project may be approved administratively on a case-by-case basis based on the nature and scope of the proposed changes, or subject to planning commission approval, provided changes are consistent with the intent and purpose of the condominium permit approval. The director of community development shall determine the appropriate application type and fee. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-962. Filing fee.

The filing fee for a condominium permit shall be in the amount established by resolution of the city council. Fees shall also include copying and distribution costs associated with providing copies of the project staff report to existing tenants. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-963. Reporting to planning commission and city council.

The planning division will include in its staff report on all condominium conversion applications, statistical information regarding the number of apartment units converted to condominiums, and the percentage of multiple residential housing unit stock that has been converted. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Sec. 33-964. Required notices to tenants.

Condominium permits for the conversion of existing units are subject to all state-mandated notice requirements including:

(a) Current tenants of the apartments to be converted must be notified through mail, a minimum of sixty (60) days prior to the filing of the application;

(b) Written notice of the proposed conversion, has been, and will continue to be given to all subsequent tenants;

(c) Each tenant has received ten (10) days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate;

(d) Written notice of intent to convert has been, or will be provided to current residents for a minimum duration of one hundred eighty (180) days prior to terminating tenancy;

(e) Notice must be provided to each tenant a minimum of ten (10) days prior to any public hearing on the conversion;

(f) A copy of the staff report must be provided to each tenant a minimum of three (3) days prior to any scheduled public hearing involving the proposed conversion. The applicant shall pay all copying, mailing, and handling costs in an amount adopted by resolution of the city council;

(g) Notice of the city council's decision must be provided to each tenant ten (10) days after the approval of a final map;

(h) A ninety (90) day notice of exclusive right to purchase from date of issuance of the subdivision public report per Section 11018.2 of the Business and Professions Code.

In addition to the notice requirements listed in this section, tenants shall be given notice of preferential opportunities to purchase an alternate unit on a first-come, first-serve basis. Additionally, the notice of intent to convert may not be provided until after city council approval of the tentative subdivision map and condominium permit.

All notices must be personally delivered or sent via certified U.S. mail. (Ord. No. 2005-21 (RRR), § 1 Exh. 1, 8-24-05)

Secs. 33-965—33-969 Reserved.