

ORDINANCE NO. 09.09

AN ORDINANCE AMENDING ARTICLES I, II, VI, VII AND VIII OF
CHAPTER 28 OF THE MOUNTAIN VIEW CITY CODE, RELATING TO
CONDOMINIUMS, COMMUNITY APARTMENT PROJECTS
AND COMMON GREEN SUBDIVISIONS

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. Article I of Chapter 28 of the Mountain View City Code is hereby
amended to read as follows:

**"ARTICLE I.
GENERAL SUBDIVISION PROVISIONS."**

SEC. 28.1. Authority for local regulations; Application.

Pursuant to Chapters 1 through 7 of Division 2, Title 7 of the California Government Code, commencing with Sec. 66410, referred to herein as the Subdivision Map Act, and in addition to any other provisions of law, the provisions of this chapter shall apply to all divisions of land or parts thereof or air space hereafter made of land wholly or partially within the city limits of the city, and to the preparation of subdivision maps or parcel maps, and to other maps provided for by the Subdivision Map Act, or herein, for approval; and each such division of land and each part thereof lying within the city limits of said city shall be made, and each map shall be prepared and presented for approval, as hereinafter provided for and required.

SEC. 28.2. References to other laws.

Whenever reference is made to any portion of this chapter or any other ordinance or statute, such reference applies to and includes all amendments and additions now or hereafter made.

SEC. 28.3. Prohibitions of sale, lien or lease.

a. No person shall offer to sell or lease, to contract to sell or lease, to sell or lease, or to finance any parcel or parcels of real property or to commence construction of any building for sale, lease or financing thereon, except for model homes, or to allow occupancy thereof, until a final map or parcel map, in full compliance with the provisions of this chapter, has been duly filed in the office of the county recorder.

b. Neither this section nor any other portion of this chapter shall apply to the leasing of apartments, offices, stores or similar space within an apartment building, industrial buildings or commercial buildings, or mobile home parks, or trailer parks, or to mineral, oil or gas leases.

SEC. 28.4. Transactions voidable.

Any deed or conveyance, mortgage, deed of trust, or other lien or lease, or sale or contract to sell, mortgage, lien or lease, real property made contrary to the provisions of this chapter is voidable at the sole option of the grantee, buyer, tenant, mortgagee, beneficiary or person contracting to purchase, or to accept a lien or mortgage, or to lease as a tenant, his/her heirs, personal representatives or trustees in insolvency or bankruptcy, within one (1) year after the date of discovery of the violation of the provisions of this chapter or the Subdivision Map Act, but such deed of conveyance, sale, mortgage, deed to trust, lien, lease or contract is binding upon any assignee or transferee of the grantee, mortgagee, beneficiary, tenant, buyer or person contracting therefor, other than those above enumerated, and upon the grantor, vendor, mortgagor, trustor, landlord or person so contracting, his assignee, heir or devisee.

The provisions of this section shall not limit or affect in any way the rights of a grantee or successor-in-interest under any other provision of law.

SEC. 28.5. Issuance of permits.

No building, plumbing or electrical permit shall be issued for the construction, reconstruction, alteration or modification of any building or structure situated on land which has been divided or conveyed in a manner contrary to the provisions of this chapter and/or the Subdivision Map Act. Any permit issued prior to such a division or conveyance shall be subject to revocation after notice and hearing.

SEC. 28.6. Reapportionment of assessments.

If any lot or parcel of land upon which there is an unpaid assessment represented by bonds issued under the Improvement Procedure Code and Division 10 of the Streets and Highways Code is subdivided, including a division into condominium interests as defined in Sec. 783 of the Civil Code, or the ownership of a portion of such lot or parcel of land is transferred to another person, the owner of any interest in any of the lots or parcels into which the original lot or parcel has been divided shall file an application in writing with the public works director. The application shall indicate how the original lot or parcel has been divided or transferred, request the public works director to apportion the amount remaining unpaid on the assessment in accordance with the California Improvement Procedure Code and the Streets and Highways Code, and be accompanied by a fee in an amount to be fixed from time to time by resolution or ordinance of the city council for each separate part or parcel of land into which the

original lot or parcel has been divided or transferred. The public works director shall deposit all such fess in the city treasury.

SEC. 28.7. Short title.

This chapter may be cited as "The Subdivision Ordinance of the City of Mountain View."

SEC. 28.7.1. Definitions.

As used in this chapter, the following words and phrases shall have the following meaning:

"Common green subdivision" shall mean a division of land in which there are both separately held parcels of land and commonly held parcels of land within the proposed development, the latter held undivided and in common by owners of the separately held parcels, all pursuant to a planned unit development approved in accordance with the provisions of the zoning ordinance of the city.

"Community apartment project" shall mean a development in which an undivided interest held in a single ownership in the land is coupled with the right of exclusive occupancy of any apartment, unit or portion of a structure located thereon. This shall include granting the right of exclusive occupancy, or the right to finance, to any individual or individuals based on the creation of tenancies-in-common and as further defined in the California Civil Code Sec. 1351(d).

"Condominium" shall mean an estate in real property consisting of a separate interest in a dwelling unit together with an undivided interest in the balance of the property (land and improvements) which is owned in common by the owners of the individual dwelling units, and as further defined in Sec. 783 of the California Civil Code.

"Condominium conversion" shall mean the conversion or division of a single-ownership parcel with a building or buildings into a common-interest development as defined in the California Civil Code Sec. 1351(c), condominium, community apartment project or stock cooperative project or tenancy-in-common form of ownership involving separate-interest ownership or permanent right of exclusive use of individual dwelling units. Condominium conversion also means the conversion of commercial, industrial or any nonresidential spaces in an existing building to condominium as defined herein.

"Condominium conversion project" shall mean a development in which the entire parcel of real property, including all structures thereon or appurtenant thereto, is subject to condominium conversion.

"Davis-Stirling Common Interest Development Act" shall mean the act set forth in the California Civil Code Division 2, Part 4, Title 6, commencing with Sec. 1350.

"Final map" shall mean a map of a subdivision which is prepared in accordance with the provisions of this chapter and with any applicable provisions of the Subdivision Map Act, and which is designed to be recorded in the office of the Santa Clara County Recorder.

"Parcel map" shall mean a map showing division of land into less than five (5) lots or a division of land into five (5) or more lots that meets the conditions of the California Government Code, Sec. 66426(a), (b), (c) and (d) or a division of land creating less than five (5) lots by means of combining lots that may have been partially or entirely subdivided previously, which is prepared in accordance with the provisions of this chapter and the provisions of the Subdivision Map Act and which is to be recorded in the office of the Santa Clara County Recorder.

"Preliminary parcel map" shall mean a map for the purpose of showing the design of a proposed parcel map and the existing conditions in and around it and need not be based upon an accurate or detailed final survey of the property.

"Subdivision" shall mean the same as defined in Sec. 66424 of the Subdivision Map Act.

"Stock cooperative project" shall mean a project wherein a corporation is formed or availed of primarily for the purpose of holding title to an apartment project or group of more than one (1) individual rental unit, if all, or substantially all, of the shareholders of such corporation receive a right of exclusive occupancy in a dwelling unit, title to which is held by the corporation, which right of occupancy is transferred only concurrently with the transfer of shares of stock in the corporation held by the person having such right of occupancy and as further defined in the California Civil Code Sec. 1351(m).

"Subdivision committee" shall mean a committee consisting of the community development director, the public works director and the city manager or city attorney, and shall constitute the advisory agency as that term is used in the Subdivision Map Act.

"Subdivision Map Act" shall mean Chapters 1 through 7 of Division 2, of Title 7 of the California Government Code, commencing with Sec. 66410 thereof.

"Tentative map" shall mean the same as defined in Sec. 66424.5 of the Subdivision Map Act.

"Other definitions." Except as otherwise provided in this chapter, all terms used in this chapter which are defined in the Subdivision Map Act or the Davis-Stirling

Common-Interest Development Act are used in this chapter as so defined, unless from the context thereof it clearly appears that a different meaning is intended."

Section 2. Article II of Chapter 28 of the Mountain View City Code is hereby amended to read as follows:

**"ARTICLE II.
ENVIRONMENTAL AND PLANNING FINDINGS.**

SEC. 28.8. Mandatory finding.

No tentative or final subdivision map hereunder shall be approved unless the proposed subdivision, together with the provisions for its design and improvement, is consistent with general plan or applicable precise plan and/or specific plan, including the conservation element thereto and the city council so finds. Failure of the city council to so find shall require disapproval of the proposed map.

SEC. 28.8.1. Permissive findings.

The city council shall deny approval of a tentative or final subdivision map if it makes any of the following findings:

- a. That the proposed map is not consistent with the general and/or applicable precise plan or applicable specific plan.
- b. That the design or improvement of the proposed subdivision is not consistent with the general and/or applicable precise plan or applicable specific plan.
- c. That the site is not physically suitable for the type of development.
- d. That the site is not physically suitable for the proposed density or development.
- e. That the design of the subdivision or the type of improvements is likely to cause serious public health problems.
- f. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at-large, for access through or use of property within the proposed subdivision. In this connection, the city council may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction.

g. That the design and proposed improvements of the subdivision are not consistent with local guidelines relating to implementation of the California Environmental Quality Act of 1970.

SEC. 28.8.2. Environmental finding.

The city council shall deny approval of a tentative or final subdivision map if it finds that the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

SEC. 28.8.3. Compliance with tentative map.

The city council shall not deny approval of a final subdivision map pursuant to Sec. 28.71 or 28.72 of this chapter if it has previously approved a tentative map for the proposed subdivision and if it finds that the final map is in substantial compliance with the previously approved tentative map."

Section 3. Article VI of Chapter 28 of the Mountain View City Code is hereby amended to read as follows:

**"ARTICLE VI.
CONDOMINIUMS, COMMUNITY APARTMENT PROJECTS
AND COMMON GREEN SUBDIVISIONS.**

SEC. 28.67. Applicability.

In addition to all other requirements of the Subdivision Map Act, the provisions of Chapter 28 and this article shall apply to all condominiums, stock cooperatives, community apartment projects, common green subdivisions, tenancies-in-common and condominium conversions in the city. The provisions of this article are enacted pursuant to the provisions of Sec. 200 of the Charter of the City of Mountain View and of the Subdivision Map Act.

SEC. 28.68. Map filing and form; Project plan required.

The provisions of Articles III (Preliminary Parcel Maps and Tentative Maps) and IV (Parcel Maps and Final Maps) of this chapter shall apply to all maps submitted in connection with any condominium, stock cooperative, community apartment project, common green subdivision, tenancy-in-common and condominium conversion, which provisions shall also apply regardless of the number of units of land or air space

proposed to be created. Additionally, the following information shall be submitted with a preliminary parcel or tentative map of any condominium:

- a. A project plan containing a graphic and written description of the number of units into which the air space is to be divided, including its location, dimensions, elevations and numbering of each unit.

SEC. 28.68.1. Buyer protection provisions.

For the protection of purchasers of individual units, all condominiums, stock cooperatives, community apartment projects, common green subdivisions and tenancies-in-common as well as all conversions of existing residential real property into condominiums, stock cooperatives, community apartment projects, common green subdivisions and tenancies-in-common shall comply with the following requirements:

- a. The covenants, conditions and restrictions (CC&Rs), or equivalent document, shall contain, or be amended to contain, on the first page thereof, in type as large as any type used in the CC&Rs, a notification in substantially the following terms:

"NOTICE:

THE TERMS OF THIS DOCUMENT ARE LEGALLY BINDING.
READ IT CAREFULLY. A REAL ESTATE BROKER IS QUALIFIED TO
ADVISE YOU ON REAL ESTATE MATTERS. IF YOU DESIRE LEGAL ADVICE,
CONSULT YOUR ATTORNEY."

b. Discrimination against families with children prohibited.

1. It shall be unlawful for a subdivider or owner of the property being developed or converted, or the owner of any unit which is created after the condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common has been constructed, or the conversion has been completed, to refuse to sell, lease or rent any dwelling unit, or to otherwise deny occupancy of said unit, because the family which is the prospective purchaser, lessee, renter or occupier of said unit has one (1) or more children.

2. It shall be unlawful for a subdivider or owner of the property being developed or converted, or the owner of any unit which is created after the condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common has been constructed, or the conversion has been completed, to discriminate, in the terms, conditions, privileges or availability of residential facilities or services, against persons who are prospective residents because they have one (1) or more children.

3. Excluded from the requirements of Subsections 1 and 2 of this Sec. 28.68.1.b shall be studio units within such condominium, stock cooperative, community apartment project, common green subdivision and tenancy-in-common; or condominiums, stock cooperatives, community apartment projects, common green subdivisions and tenancies-in-common which have a publicly established and maintained policy of selling, leasing or renting dwelling units exclusively to elderly persons (i.e., those persons 62 years of age or older). "Studio unit," as used in this subsection, shall mean a dwelling unit having not more than one (1) habitable room in addition to the kitchen and bathroom.

4. The conditions, covenants and restrictions (CC&Rs), or equivalent document, for any new or converted condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common shall contain, or be amended to contain, the provisions set forth in Subsections b.1 and b.2 of this section. The CC&Rs shall also provide that the city be given the right to enforce these two restrictions.

c. It shall be unlawful for a subdivider or owner of any newly converted condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common to discriminate, in the sale, or in the terms and conditions of sale, of any dwelling unit located within such newly converted condominium, stock cooperative, community apartment project, common green subdivision and tenancy-in-common against any person who is or was a lessee or tenant of any such dwelling unit, because such person opposed, in any manner, the conversion of such former apartment building or residential complex into a condominium, stock cooperative, community apartment project, common green subdivision and tenancy-in-common.

d. Any aggrieved person may bring an action for legal and/or equitable relief in a court of competent jurisdiction to enforce the rights given such person by any provision of this article.

e. A document entitled "INFORMATION STATEMENT FOR PROSPECTIVE PURCHASERS OF A CONDOMINIUM, STOCK COOPERATIVE, COMMUNITY APARTMENT, COMMON GREEN SUBDIVISION OR TENANCY-IN-COMMON UNIT," signed by the subdivider or owner, shall be filed with the public works director and a copy thereof shall be furnished by the subdivider or owner to each purchaser prior to the time he or she incurs any obligation to purchase a dwelling unit. Such document shall be in a form approved by the public works director and shall contain the following information, of which the subdivider or owner is solely responsible for its accuracy:

1. The name, address and capacity of each person or firm involved in the construction, conversion, rehabilitation, sale or financing of the project.

2. A legal description of the project and a map showing the location of the individual units, the common areas and other facilities.

3. A listing of the services and facilities to be furnished to individual owners and a statement of all fees and other conditions applicable to the use of such services and facilities.

4. A statement of the estimated annual operating and maintenance costs for all common facilities and services for the next three (3) years as prepared or reviewed by a professional management firm familiar with operating and maintenance costs of similar property in the area.

5. A statement granting to each purchaser of a unit the right to cancel his or her purchase of such unit, without cost or liability, provided he or she gives written notice of cancellation within fifteen (15) days after he or she signs a purchase agreement.

6. A statement of any other information that the public works director reasonably determines should be furnished to a prospective purchaser to enable him or her to make an informed decision regarding the purchase of a unit in that project.

f. A copy of the duly recorded CC&Rs, which CC&Rs contain the provisions required by this article, shall be furnished by the subdivider or owner to each prospective purchaser prior to the time such person incurs the obligation to purchase a dwelling unit.

g. No contract for the management, operation or maintenance of common areas may extend more than thirty (30) days beyond the time at which majority control of the homeowners' association passes to individual unit owners, unless a longer period of time is approved by the homeowners' association after majority control has passed to individual unit owners.

SEC. 28.69. Design standards for new condominiums, stock cooperatives, community apartment projects, common green subdivisions and tenancies-in-common.

The provisions of Article V (Design Standards) of this chapter shall apply to all maps submitted in connection with any condominium, stock cooperative, community apartment project, common green subdivision, and tenancy-in-common, which provisions shall also apply regardless of the number of units of land or air space proposed to be created. The terms "map" or "conversion map," as used in Articles VI, VII and VIII, shall mean and include a tentative map, final map, preliminary parcel map

and parcel map, as such terms are defined in Article I of this chapter. Additionally, the following design standards shall likewise apply to:

a. New condominiums, stock cooperatives, community apartment projects and tenancies-in-common.

1. The design, improvement and construction of new condominiums, stock cooperatives, community apartment projects or tenancies-in-common shall conform to and be in full accordance with all requirements of all building, fire and housing codes, zoning provisions and all other applicable local ordinances and regulations in effect at the time of filing of the tentative map or preliminary parcel map.

2. The design and improvement of such new condominiums, stock cooperatives, community apartment projects and tenancies-in-common may also be required to incorporate special design features and amenities (i.e., useable open space, children's play areas and similar physical improvements) as conditions of approval of said map.

3. All private streets, driveways and parking areas for said condominiums, stock cooperatives, community apartment projects and tenancies-in-common shall be improved and constructed with a structural section in accordance with the standards of the city and shall be designed to ensure that access for municipal services will not be denied any dwelling unit therein by reason of deteriorated, impassable private streets, driveways and parking areas.

b. New common green subdivisions.

1. The design, improvement and construction of new common green subdivisions shall conform to and be in full accordance with all requirements of all building, fire and housing codes, zoning provisions and all other applicable local ordinances and regulations in effect at the time of the filing of the tentative map or preliminary parcel map.

2. The design and improvement of such new common green subdivisions may also be required to incorporate special design features and amenities (i.e., useable open space, children's play areas and similar physical improvements) as conditions of approval of said map.

3. All private streets, driveways and parking areas for said common green subdivision shall be improved and constructed with a structural section in accordance with the standards of the city and shall be designed to ensure that access for municipal services will not be denied any dwelling unit therein by reason of deteriorated or impassable private streets, driveways and parking areas.

4. Sewage collection and water distribution lines on private property in common ownership shall be covered by one of the following requirements:

(a) All lines to be owned and maintained by the homeowners' association, or similar organization, shall be constructed to city standard specifications for public works. Water metering and billing shall be provided at each individual townhouse lot as well as for the entire development, using a master meter. The difference between the sum of individual meters and the reading of the master meter will be billed to the homeowners' association or similar organization. A sewer lateral shall be provided at each individual townhouse.

(b) All lines to be owned and maintained by the city shall be placed in asphalt concrete driveways acceptable to the public works director (with the necessary public utility easements) or shall be placed in a covered concrete-lined trench acceptable to the public works director (with the necessary public utility easements) running through the project so as to constitute an accessible pipe chase for maintenance of the lines. A water meter and sewer lateral shall be provided at each individual townhouse.

SEC. 28.69.1. Condominium development initially for rental purposes.

Notwithstanding any other provisions of this chapter, a subdivider proposing to rent units within a new or converted condominium development for a certain period of time after receiving a certificate of occupancy for the units in the development shall enter into an agreement with the city prior to approval of a tentative map or preliminary parcel map. The agreement shall provide the proposed length of the rental period and that one (1) year before the expiration of the rental period when the units within the development may be sold to individual purchasers, the subdivider shall prepare reports, serve notices and shall agree to follow all requirements of state law and the city code relative to the protection and relocation of tenants and prospective purchasers."

Section 4. Article VII of Chapter 28 of the Mountain View City Code is hereby amended to read as follows:

**"ARTICLE VII.
RESIDENTIAL CONDOMINIUM CONVERSIONS.**

SEC. 28.70. Purpose.

The conversion of residential rental units to ownership housing impacts the supply and availability of rental housing and may cause displacement of residents, who may be required to move from the community due to lack of replacement housing. A reduction in the supply of rental housing creates pressure for higher rents in the remaining rental housing supply. Conversions may sometimes, however, provide

homeownership opportunities that are more affordable when compared to new home construction.

It is the purpose of this ordinance to seek to assure a reasonable balance of rental and ownership housing and a variety of individual choices of type, price and location of housing and to maintain the supply of rental housing for low- and moderate-income persons and families and to maintain the flexibility and redevelopment potential of the city's residential areas in substantial compliance with the city's General Plan. This article is intended to ensure compliance with and implement the Conversion Limitation Act, adopted by the voters on November 6, 1979.

SEC. 28.71. Applicability.

In addition to all other requirements of the Subdivision Map Act, the provisions of Chapter 28 of the Mountain View City Code and this article shall apply to the conversion of any existing structure or structures to a condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common in the City of Mountain View. The provisions of this article are enacted pursuant to the provisions of Sec. 200 of the Charter of the City of Mountain View and of the Subdivision Map Act.

SEC. 28.72. Permit.

In addition to filing a tentative map or preliminary parcel map required for condominium conversion projects pursuant to Sec. 28.68 of Article VI, a Development Review permit in accordance with Sec. A36.52 or a Planned Community Permit in accordance with Sec. A36.68 of Chapter 36, Mountain View City Code, shall be required for condominium conversions. Permit applications shall be processed pursuant to Sec. 28.74.

a. No permit application for residential condominium conversion shall be accepted and no permit will be issued unless a preliminary determination has been made by the community development director that the application meets the requirements of Article IX of Chapter 28, the Conversion Limitation Act. If the community development director so determines, the application may be processed; however, the determination of eligibility shall not be final until approved by the city council. Conversions, demolitions and apartments/rentals with maps shall be counted in determining compliance with the Conversion Limitation Act.

b. No tentative map or preliminary parcel map for condominium conversions shall be filed and no tentative or preliminary map shall be approved without the approval of a permit application under this section.

c. **Exclusions.** No conversion of units may be applied for or approved unless the units are all of the same housing type (e.g., not mixed types of units); were constructed as an integrated project; and built as either apartments or townhouses. Complexes which have a mixed unit type or are of soft-story construction are not eligible for conversion to condominiums. Duplex units to six-plex units constructed in a single structure are not eligible for conversion.

SEC. 28.73. Tenant noticing requirements.

a. **Notice to existing tenants.** The subdivider or owner of an apartment building or residential complex proposed to be converted to a condominium, stock cooperative, community apartment project, common green subdivision and tenancy-in-common shall give to each tenant of the residential real property proposed for conversion the following notices and rights now or hereafter required by the Subdivision Map Act and as set forth in Sec. 66427.1 of the Act:

1. Written notice of intention to convert, provided at least sixty (60) days prior to the filing of a tentative map or preliminary parcel map. The notice shall be in a form outlined in Sec. 66452.18(b) of the Subdivision Map Act.

2. Written notice ten (10) days before submittal that an application for a public report will be, or has been, submitted to the Department of Real Estate, that the period for each tenant's right to purchase begins with the issuance of the final public report and that the report will be available on request.

3. Written notice that the subdivider has received the public report from the Department of Real Estate. This notice shall be provided within five (5) days after the date the subdivider receives the public report.

4. Written notice within ten (10) days after approval of a parcel map or final map for the proposed conversion.

5. Written notice of intent to convert provided one hundred eighty (180) days prior to termination of tenancy due to the conversion, but not before the city has approved a preliminary parcel map or a tentative map for the conversion. The notice given shall not alter or abridge the rights or obligations of the parties in the performance of their covenants, including, but not limited to, the provision of services, payment of rent or the obligations imposed by Sec. 1941, 1941.1 and 1941.2 of the California Civil Code. The notice shall be in a form outlined in Sec. 66452.19(b) of the Subdivision Map Act.

6. Written notice of an exclusive right to contract for the purchase of his or her respective dwelling unit upon the same terms and conditions that the unit will be initially offered to the general public or terms more favorable to the tenant. The notice

shall be given within five (5) days after receipt of the subdivision public report. This exclusive right to purchase shall commence on the date the subdivision public report is issued, as provided in Sec. 11018.2 of the Business and Professions Code and shall run for a period of not less than ninety (90) days, unless the tenant gives prior written notice of his or her intention not to exercise the right. The notice shall be in a form outlined in Sec. 66452.20 (b) of the Subdivision Map Act.

7. All other applicable notices and rights now or hereafter required by this chapter, or Chapters 2 or 3 of the Subdivision Map Act.

b. **Notice to prospective tenant.** Commencing at a date not less than sixty (60) days prior to the filing of a tentative map or preliminary parcel map, the subdivider or his or her agent shall give notice of the filing to each person applying after that date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider in accordance with Sec. 66452.17 of the Subdivision Map Act. The notice shall be in a form outlined in Sec. 66452.17 (b) of the Subdivision Map Act.

c. **Keeping of records.** The subdivider or owner shall be required to keep a copy of all notices required by Sec. 28.73 for a period of two (2) years after such notices were personally delivered or mailed, such records to include:

1. A copy of each notice showing the date on which it was delivered or mailed; and

2. Proof of the giving of the notice consisting of:

(a) If delivered, the signature of the person to whom it was delivered acknowledging such delivery; or

(b) If mailed, proof of mailing, and, in the case of the notice of intention to convert pursuant to Sec. 28.73(a)(1), the return receipt if a receipt was returned by the recipient of such notice.

SEC. 28.74. Process.

In conjunction with processing tentative maps or preliminary parcel maps in accordance with this chapter and the Subdivision Map Act, permit applications for condominium conversions shall be reviewed and processed in accordance with this article and with Sec. A36.52 (Development Review), Sec. A36.68 (Planned Community Permits) and Sec. A36.50.020 (Review Authority) of Chapter 36, Mountain View City Code.

a. **Development review required.** The zoning administrator shall hold a public hearing on the development review application in accordance with Sec. A36.80 (Applications, Hearings and Appeal(s)) of Chapter 36, Mountain View City Code, and will provide a written recommendation to the city council for final action on the development review application. The zoning administrator may route the proposal to the development review committee if exterior improvements are proposed or deemed necessary.

b. **Notice of city council meeting to consider tentative map.** Following the date the city council fixes a meeting date for consideration of a tentative map, or the date the subdivision committee fixes a meeting date for consideration of a preliminary parcel map, which proposes the conversion of residential real property to a condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common, but not less than ten (10) days prior to the said date for consideration, the community development director shall give a written notice to each tenant of the subject property informing said tenant of the date, time and place of the city council's or subdivision committee's consideration of the tentative map and the tenant's right to appear and be heard pursuant to Sec. 66451.3 of the Subdivision Map Act.

1. **Council meeting staff report to tenants.** Additionally, a copy of any staff report or recommendation on a tentative map or a preliminary parcel map relating to the proposed residential condominium conversion shall be served on the subdivider and on each tenant of the subject property at least three (3) days prior to any hearing or action on said map by the city council or the subdivision committee, respectively, pursuant to Sec. 66452.3 of the Subdivision Map Act.

c. **Buyer and tenant protection requirements for conversion.** In addition to the buyer protection provisions in Article VI, Sec. 28.68.1, conversion of residential real property to condominiums, stock cooperatives, community apartment projects, common green subdivisions and tenancies-in-common shall comply with the following requirements as additional protections to purchasers of individual units:

1. **Condition of improvements report required.** A report entitled "CONDITION OF IMPROVEMENTS REPORT" shall be prepared and certified by a licensed engineer or architect subject to approval by the city's chief building official. The subdivider or owner is solely responsible for all costs associated with preparing this report and shall pay a fee to the city for administering, reviewing and evaluating the report in accordance with Sec. 28.76 (g). The report, which shall be approved as to content by the chief building official prior to being distributed, shall set forth the consultant's best available information on the age and condition of the building or buildings proposed to be converted, including the estimated remaining life of the roof, foundation and mechanical, electrical, plumbing and structural elements of the building or buildings. The report shall further indicate those provisions of previously adopted

city building and fire codes involving health and life safety items which have been changed since the date the building or buildings being converted were constructed, plus identify present building or fire code requirements which are not met. If a prospective purchaser is not a tenant of the apartment building or residential complex at the time the conversion map is filed with the city, the owner shall furnish a copy of said report to each such prospective purchaser prior to the time such person incurs the obligation to purchase a unit. If a prospective purchaser is a tenant of the apartment building or residential complex at the time the conversion map is filed with the city, the owner shall furnish the report to such person at that point in time when such person is given the ninety (90) day exclusive right to purchase his or her unit.

2. Structural pest report required. A report entitled "STRUCTURAL PEST REPORT" shall be prepared and certified by a person, entity or corporation selected by the city's chief building official and licensed by the State of California as a structural pest control operator subject to approval by the city's chief building official. The subdivider or owner is solely responsible for all costs associated with preparing this report and shall pay a fee to the city for administering, reviewing and evaluating the report in accordance with Sec. 28.76(g). This report shall also be furnished to prospective purchasers of each converted unit at those points in time mentioned in Sec. 28.74.c.1, depending on whether such prospective purchaser is or is not a tenant of the apartment building or residential complex at the time the conversion map is filed with the city.

3. Building inspection report required. A detailed building inspection and report shall be made by or at the direction of the chief building official, at the subdivider's or owner's expense, of all buildings or structures proposed for conversion, and the report shall determine and identify any housing code violations, other code violations or other deficiencies involving a threat to life or property which must be corrected as a condition of approval of the tentative map or preliminary parcel map.

4. Building and appliance warranty required. Each purchaser shall be granted by the subdivider or owner a one (1) year warranty on all appliances installed in his or her unit, and to the homeowners' association and all purchasers of individual units shall be granted a one (1) year warranty on all structures in the project and on all electrical, heating, air conditioning, plumbing, ventilation equipment, roofing and elevators.

d. Temporary housing required for tenant displaced due to renovation. As to any tenant or renter of an apartment unit or dwelling unit within a residential complex at the time a tentative map or preliminary parcel map for a conversion of that building or structure is filed with the city, who enters into a written agreement with the owner to purchase the dwelling unit once it has been converted, and who is thereafter required to temporarily vacate or is temporarily displaced from said apartment or residential unit

because the subdivider or owner is renovating or effecting certain structural modification to comply with the city's requirements, the owner shall be responsible for:

1. Finding suitable, temporary, replacement housing for such tenant and, if the monthly rent is higher for the replacement housing than for the apartment or dwelling unit being vacated, paying the difference in such monthly rent; and

2. Paying such tenant's actual moving expenses in temporarily moving from the said apartment or dwelling unit and moving back into the unit when the renovation or structural modifications have been completed and approved by the city.

e. **Additional tenant relocation assistance required.** The city's most current tenant relocation assistance policy shall apply to all tenants who have not entered into a written agreement with the owner to purchase the dwelling unit once it has been converted.

SEC. 28.75. Required city council findings for approval; Grounds for denial.

a. **Required city council findings for approval.** The city council shall not approve any project for the conversion of any existing structure or structures to a condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common unless it makes the following findings and determinations:

1. That the proposed conversion is consistent with the longer-range goals of the general plan, the zoning district and any precise plan, and that the conversion does not conflict with the amortization or sunsetting of the allowed use of the building sought to be converted.

2. That the proposed conversion would not adversely and seriously disrupt the effective operation or functioning of nearby schools or other community facilities.

3. That the apartment building or residential complex proposed for conversion does not represent a unique and needed housing resource in the city or in the neighborhood taking into consideration such factors as the need for a balanced rental-owner housing supply, current rental rates, apparent appeal to families with children and special tenant displacement problems which would result from the conversion.

4. That any proposed condominium conversion has complied with the city's most current tenant relocation policy.

5. That any proposed condominium conversion has met all noticing requirements as outlined in Articles VI and VII.

b. **Mandatory grounds for denial.** In addition to those grounds for denying a final map or parcel map which are set forth in Sec. 66473.5 and 66474 of the Subdivision Map Act and in Article IV (Parcel Maps and Final Maps) of this chapter, the city council shall not approve a final map, or the city engineer approve a parcel map, for a subdivision to be created from the conversion of residential real property into a condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common unless it or he/she finds as follows:

1. Each tenant of the residential real property has received or will have received each of the notices and rights pursuant to Sec. 28.73 (a) of this article and as now or hereafter required by Chapter 2 and Chapter 3 of the Subdivision Map Act.

2. Each person applying for the rental of a unit in the residential real property has received or will have received the notice and rights pursuant to Sec. 28.73(b) of this article and as now or hereafter required by Chapter 2 and Chapter 3 of the Subdivision Map Act.

c. **Permissive grounds for denial.** In addition to the grounds for denial set forth in this chapter and the State Subdivision Map Act, an application for approval of a tentative map or preliminary parcel map for the conversion of residential rental units to a condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common may be denied on the ground that either:

1. The proposed project, because of its physical characteristics, lot size, configuration, site design or building condition is not suitable for conversion to a condominium, stock cooperative, community apartment project, common green subdivision or tenancy-in-common; or

2. The proposed project, because of its physical characteristics, lot size, configuration, site design or building condition is not suitable for families with children.

3. The proposed project contains fewer than sixteen (16) units and is not suitable for conversion due to its size, amenities, ingress, egress or ability to maintain itself.

SEC. 28.76. Design and safety standards for conversions.

The design, improvement and construction to convert an existing apartment building or residential complex to a condominium, stock cooperative, community apartment project or common green subdivision or tenancy-in-common shall comply

with design standards in Sec. 28.69, except as modified in this section, and with the following design and safety standards:

a. **Codes, ordinances and regulations.** All building and fire codes, zoning provisions and all other applicable local ordinances and regulations in effect at the time of construction of such structure, and shall in addition conform to and be in accordance with the standards set forth in this section, or most recent standards as adopted by the city council, in effect at the time of filing of the tentative map or preliminary parcel map for such conversion.

b. **Zoning provisions.** Current residential zoning ordinance standards for density, floor area ratio, building setback, open space, parking and circulation.

c. **Minor exceptions considered.** Minor exceptions to current residential zoning ordinance standards shall be considered for up to ten (10) percent for building setback and fifteen (15) percent open space requirements only.

d. **Special features may be required.** The design and improvement of any such conversion may also be required to incorporate special design features and amenities (i.e., useable open space, children's play areas and similar physical improvements) as conditions of approval of said map.

e. **Building, seismic, fire and housing codes compliance; facility and site improvement requirements.**

1. Seismic safety pursuant to any of the following standards: 2007 California Building Code, 2006 International Existing Building Code, Seismic Rehabilitation of Existing Buildings (ASCE 41-06) or an equivalent procedure approved by the chief building official and updated and amended versions of said codes;

California Building Standards; Title 24—Energy Standards;

3. Fire-Life Safety and Habitability Standards pursuant to the 2007 California Building Code; 2007 California Plumbing Code; 2007 California Mechanical Code; and 2005 National Electrical Code and updated and amended versions of said codes;

4. 2007 California Fire Code and updated and amended versions of said code;

5. Article IX of Chapter 8, Mountain View City Code (Drainage and Flood Control), Sec. 8.160, *et seq.*;

6. Separate utility services shall be provided to each building and to each unit unless the public works director determines that such separate utility services are both not desirable and not feasible. If separate utility services are not provided, the homeowners' association, or similar organization, shall be primarily liable for all city utility billings and the owners of individual residential buildings and units shall jointly and severally be secondarily liable for all city utility billings, and security for payment of utility billings shall be provided as set forth in Sec. 35.38.c.

f. **Written report on improvements and compliance required.** An independent consultant approved by the chief building official shall prepare a written report, with appropriate itemized cost estimates, on all improvements necessary to make the development comply with Items 28.76.e(1), (2), (3), (4), (5) and (6) of this section. The subdivider or owner is solely responsible for all costs associated with preparing this report and shall pay a fee to the city for administering, reviewing and evaluating the report in accordance with Item (g) of this section. Minor nonsafety or structural deviations from strict compliance with the design and safety standards may be approved at the discretion of the chief building official or the public works director as appropriate.

g. **Fee for City services.** Fees for the review and evaluation services, and other related expenses incurred and performed by City staff, shall be an amount (based on an hourly rate) established by city council resolution."

Section 5. Article VIII of Chapter 28 of the Mountain View City Code is hereby amended to read as follows:

**"ARTICLE VIII.
COMMERCIAL AND INDUSTRIAL CONDOMINIUM CONVERSIONS.**

SEC. 28.80. Purpose.

The conversion of commercial and industrial buildings into smaller ownership units likewise creates impacts to the city's available business space, including reducing the flexibility and utility of that space by creating multiple ownerships on one parcel that was originally designed to function and be available for a wide variety and size of uses. Multiple ownerships can create significant conflicts among users, leading to the deterioration of the property and secondary safety and aesthetic issues to neighboring properties. The maintenance of flexibility and utility in the commercial and industrial base is critical to the economic viability of the City of Mountain View as well as the economic viability of our region.

It is the purpose of this ordinance to seek to assure a reasonable balance of rental and ownership industrial and commercial units and a variety of individual choices of tenure, type, price and location of available business space and to maintain the supply

of available business space and to maintain the flexibility and redevelopment potential of the city's key industrial and commercial areas in substantial compliance with the city's General Plan.

SEC. 28.81. Applicability.

In addition to all other requirements of the Subdivision Map Act, the provisions of this chapter shall apply to the conversion of commercial, industrial or any nonresidential space in an existing building or buildings to condominium in the City of Mountain View. The provisions of this article are enacted pursuant to the provisions of Sec. 200 of the Charter of the City of Mountain View and of the Subdivision Map Act.

SEC. 28.82. Permit.

In conjunction with processing tentative maps or preliminary parcel maps in accordance with Chapter 28, Mountain View City Code, and the Subdivision Map Act, a development review permit in accordance with Sec. A36.52 or a planned community permit in accordance with Sec. A36.68 of this code, shall be required for the conversion of commercial, industrial or any nonresidential space in an existing building or buildings to condominiums. Permit applications shall be processed pursuant to Sec. 28.84.

a. No permit application for the conversion of commercial and industrial building or buildings to condominium shall be processed unless a preliminary determination has been made by the community development director that the use, as zoned, is consistent with current zoning and is consistent with any interim moratorium for a zoning or use or structure amortization. This preliminary determination by the community development director may allow the application to be processed; however, the final action under this section shall be made through the public hearing process and ultimately by the city council.

b. No tentative map or preliminary parcel map for the conversion of commercial and industrial building or buildings to condominium shall be filed without a permit application under this section.

SEC. 28.83. Tenant noticing requirement.

The subdivider or owner of an existing commercial or industrial building or buildings proposed for conversion to a condominium shall give to each tenant of the property a written notice of intention to convert, provided at least sixty (60) days prior to the filing of a tentative map or preliminary parcel map in accordance with Sec. 28.73(a)(1). The owner shall also give written notice to each prospective tenant in accordance with Sec. 28.73(b) and shall keep records of all noticing in accordance with Sec. 28.73(c).

SEC. 28.84. Process.

In conjunction with processing tentative maps or preliminary parcel maps in accordance with this chapter and the Subdivision Map Act, permit applications for the conversion of existing commercial and industrial building or buildings to condominium shall be reviewed and processed in accordance with Sec. A36.52 (Development Review), Sec. A36.68 (Planned Community Permits) and Sec. A 36.50.020 (Review Authority) of this code and with current commercial and industrial zoning standards.

a. **Development review required.** The zoning administrator shall hold a public hearing on the development review application in accordance with Sec. A36.80 (Applications, Hearings and Appeal(s)) of Chapter 36, Mountain View City Code, and will provide a written recommendation to the city council for final action on the development review application. The zoning administrator may route the proposal to the development review committee if exterior improvements are proposed or deemed necessary.

b. In addition to complying with zoning ordinance provisions, permit processing for commercial and industrial condominium conversions shall also comply with the following, except that any reference to apartment building or projects and residential complex shall be replaced with the term "commercial or industrial building(s)" and the terms stock cooperative, community apartment project, common green subdivision or tenancy-in-common shall not apply:

1. Buyer protection provisions in Article VI, Sec. 28.68.1, Subsections (a) and (f), pertaining to covenants, conditions and restrictions (CC&Rs); Subsection (c), pertaining to nondiscrimination in the terms and conditions of sale of any units; and Subsection (e), pertaining to furnishing required information by the subdivider or owner to each purchaser of any units.

2. Notice of city council or subdivision committee meeting to consider tentative map or preliminary parcel map in Article VII, Sec. 28.74 (b).

3. Buyer and tenant protection requirements for conversion in Article VII, Sec. 28.74(c)(1) through (c)(4).

SEC. 28.85. Required city council findings for approval; Grounds for denial.

a. **Required city council findings for approval.** The city council shall not approve any project for the conversion of any existing commercial or industrial building or buildings to a condominium unless it makes the following findings and determinations:

1. That the proposed conversion of commercial and industrial buildings into smaller ownership units is consistent with the longer-range goals of the general plan, the zoning district and any precise plan, and that the conversion does not conflict with the amortization or sunsetting of the allowed use of the building sought to be converted.

2. That the proposed conversion would not adversely and irreversibly reduce the flexibility and utility of the existing commercial or industrial space by creating multiple ownerships on one parcel that was originally designed to function under a single ownership and be available for a wide variety and size of uses.

3. That the flexibility and redevelopment potential of the city's key industrial and commercial areas in substantial compliance with the city's General Plan would not be adversely impacted by the proposed conversion.

4. That a reasonable balance of rental and ownership industrial and commercial units and a variety of individual choices of tenure, type, price and location of available business space would be maintained with the proposed conversion.

5. That the supply of available business space and the flexibility and utility in the commercial and industrial base critical to the economic viability of the City of Mountain View as well as the economic viability of our region would not be adversely impacted by the proposed conversion.

6. That the conversion of a complex into individual ownerships will present no risk that the complex will result in conflicts between uses, parking, storage, etc.

7. That any proposed condominium conversion has met all noticing requirements as outlined in Articles VI, VII and VIII.

b. **Mandatory grounds for denial.** In addition to those grounds for denying a final map or parcel map which are set forth in Sec. 66473.5 and 66474 of the Subdivision Map Act, in Article IV (Parcel Maps and Final Maps) of this chapter and in this article, the city council shall not approve a final map, or the city engineer approve a parcel map, for a subdivision to be created from the conversion of commercial or industrial real property into a condominium unless it or he/she finds that all of the building(s) on

the property comply with applicable zoning and use regulations and that each of the tenants of the nonresidential real property proposed for conversion has received or will have received each of the notices in accordance with Sec. 28.83.

SEC. 28.86. Design and safety standards for conversions.

The design, improvement and construction to convert an existing commercial or industrial building or buildings to a condominium shall comply with design standards in Sec. 28.69, except as modified in this section, and with the following design and safety standards:

- a. **Compliance with codes, ordinances and regulations.** All building and fire codes, zoning provisions and all other applicable local ordinances and regulations in effect at the time of construction of such structure, and shall, in addition, conform to and be in accordance with the standards in this section, or most recent standards as adopted by the city council, in effect at the time of filing of the tentative map or preliminary parcel map for such conversion.
- b. **Compliance with zoning provisions.** Current commercial and industrial zoning ordinance standards for allowable use, floor area ratio, building setback, open space, parking and circulation.
- c. Building, seismic and fire codes compliance; facility and site improvement requirements.

1. Seismic safety pursuant to any of the following standards: 2007 California Building Code, 2006 International Existing Building Code, Seismic Rehabilitation of Existing Buildings (ASCE 41-06) or an equivalent procedure approved by the chief building official and updated and amended versions of said codes;

California Building Standards; Title 24 – Energy Standards;

3. Fire-Life Safety and Habitability Standards pursuant to the 2007 California Building Code; 2007 California Plumbing Code; 2007 California Mechanical Code; and 2005 National Electrical Code and updated and amended versions of said codes;

4. 2007 California Fire Code and updated and amended versions of said code;

5. Article IX of Chapter 8, Mountain View City Code (Drainage and Flood Control), Sec. 8.160, *et seq.*;

6. Separate utility services shall be provided to each building and to each unit unless the public works director determines that such separate utility services are not feasible. If separate utility services are not provided, the homeowners' association, or similar organization, shall be primarily liable for all city utility billings and the owners of individual buildings and units shall jointly and severally be secondarily liable for all city utility billings, and security for payment of utility billings shall be provided as set forth in Sec. 35.38.c.

d. **Written report on improvements and compliance required.** An independent consultant approved by the chief building official shall prepare a written report, with appropriate itemized cost estimates, on all improvements necessary to make the development comply with Sec. 28.86.c(1), (2), (3), (4), (5) and (6) of this article. The subdivider or owner is solely responsible for all costs associated with preparing this report and shall pay a fee to the city for administering, reviewing and evaluating the report in accordance with Item (e) of this section.

Minor nonsafety or structural deviations from strict compliance with the design and safety standards may be approved at the discretion of the chief building official or the public works director as appropriate.

e. **Fee for city review and evaluation services.** Fees for the review and evaluation services and other related expenses incurred and performed by city staff shall be an amount (based on an hourly rate) established by city council resolution."

Section 6. Article IX of Chapter 28 of the Mountain View City Code is hereby amended to read as follows:

**"ARTICLE IX.
CONVERSION LIMITATION ACT.**

SEC. 28.90. Statement of purpose.

In order to provide for the housing needs of all economic segments of the community, this ordinance urgently limits the conversion of apartments into condominiums and other types of ownership that could reduce the supply of rental housing.

SEC. 28.91. Definitions.

As used in this ordinance:

a. "Apartment" refers to a dwelling in a structure designed or used to house two (2) or more persons or families living independently of each other. Excluded are rental

units in hotels, motels, inns, tourist homes, rooming and boarding houses, hospitals and like facilities.

b. "Apartment complex" refers to the entire parcel of real property or adjacent parcels under single ownership, including at least two (2) apartments and all other structures thereon, all or part of which is rented or leased for residential purposes. Condominiums, condominium projects, community apartment projects and common green subdivisions are not apartment complexes.

c. The "total number of apartments" shall include all apartments in apartment complexes regardless of whether they are currently occupied. It shall also include apartments that have been proposed or approved for conversion where the conversion has not yet occurred. The only apartments excluded from the total number shall be those not in an apartment complex and those constructed with government funds for disadvantaged persons.

d. "Conversion" refers to a change in the type of ownership to a condominium, condominium project, community apartment project, common green subdivision or to any other form which might reduce the likelihood that any affected apartment will be rented or leased to the general public for residential purposes.

e. A conversion does not "occur" until the change in ownership is coupled with the right to immediately possess every affected apartment. In no event shall a conversion be deemed to have occurred until the expiration of one (1) year following notice to affected tenants of the proposed conversion.

f. A "deficit" in the total number of apartments refers to the number of apartments that must be newly opened for occupancy in order to bring the total number of apartments up to its initial number and thereby enable further new apartments to authorize conversions under Sec. 28.92 of this ordinance.

g. "Application" refers to those documents required by law to be filed with the city in order to initiate approval of a conversion.

h. "Tenant" refers to a tenant, subtenant, lessee, sublessee or any other person entitled to the use or occupancy of any apartment.

i. "Landlord" refers to an owner, lessor, sublessor or other person entitled to receive rent for the use or occupancy of any apartment, or an agent or successor of any of the foregoing.

j. A tenant may "legally represent" an apartment only if he or she is an adult in lawful possession thereof and has obtained the prior written consent to the conversion of any other adult tenants in lawful possession of the same apartment.

SEC. 28.92. Limitation on conversions.*

Within thirty (30) days of the effective date of this ordinance, the Mountain View city council shall ascertain and formally declare the total number of apartments then existing in the City of Mountain View. That shall be the initial total number. Except as provided in Sec. 28.93 of this ordinance and notwithstanding any other provision of law, no application for conversion shall be filed nor shall any conversion be approved or allowed to occur unless it is publicly documented beforehand that the total number of apartments will not, at any time, be reduced by the proposed conversion to any number below the initial total number.

* Resolution No. 12885, adopted December 10, 1979, declared the initial total number of apartments to be 15,373.

SEC. 28.93. Majority petition exception.

Notwithstanding the limitation on conversions imposed by Sec. 28.92 of this ordinance, an application for a conversion may be filed and a conversion may be approved and allowed to occur if such application is accompanied by a petition signed by tenants who legally represent a majority (over fifty (50) percent) of all the apartments in the apartment complex, any part of which is proposed for conversion. The petition shall clearly state that each undersigned tenant irrevocably consents to the specified conversion and that each declares, under penalty of perjury, that his or her current intention is to purchase one (1) or more of the apartments to be converted. Each undersigned tenant shall write the date of signing, his or her apartment number or other apartment designation, and the month and year he or she began lawfully possessing such apartment. To be valid, the entire petition must be filed with the City of Mountain View within sixty (60) days of the earliest date of signing. True copies of all filed petitions shall immediately be made available by the city for public inspection. Nothing in this section shall be construed to require approval of any conversion. Once a conversion authorized by this section is approved, however, it shall create a deficit in the total number of apartments. Such deficit shall equal the number of apartments to be converted.

SEC. 28.94. Scope.

All conversions shall be subject to this ordinance except:

- a. Those that have already occurred by the effective date; and
- b. Those that had already received city council approval of the tentative map before the date the notice of intent to circulate the petition calling for this code was published. (Notice of intent to circulate the petition was published March 26, 1979.)

SEC. 28.95. Tenant protections.

It shall be unlawful for any landlord to seek to evict or otherwise penalize any tenant if the landlord is motivated in any substantial part of the tenant's actual or prospective opposition to any conversion. Violation of this section shall constitute a defense to any action to recover possession from the tenant and shall give rise to a cause of action by the tenant for actual damages, injunctive relief and punitive damages in the amount of five hundred (500) dollars or in such greater amounts as is allowed by law. Any waiver of these protections shall be void.

SEC. 28.96. Partial invalidity.

If any provision of this ordinance or application thereof is held invalid, such invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable."

Section 7. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 8. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 9. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

The foregoing ordinance was regularly introduced at the Special Meeting of the City Council of the City of Mountain View, duly held on the 3rd day of November, 2009, and thereafter adopted at the Special Meeting of said Council, duly held on the 17th day of November, 2009, by the following roll call vote:

AYES: Councilmembers Bryant, Inks, Kasperzak, Macias, Siegel and Mayor Abe-Koga

NOES: None

ABSENT: Councilmember Means

NOT VOTING: None

ATTEST: APPROVED:

ANGELITA M. SALVADOR
CITY CLERK

MARGARET ABE-KOGA
MAYOR

I do hereby certify that the foregoing ordinance was passed and adopted by the City Council of the City of Mountain View at a Special Meeting held on the 17th day of November, 2009, by the foregoing vote, and was published in the *San Jose Post Record* by reference on the 13th day of November, 2009, and posted in three prominent places in said City.

City Clerk
City of Mountain View

MDM/2/ORD
014-11-03-09o-E^