

Chapter 20.54 - CONDOMINIUMS

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20.54.010 Purpose

This chapter establishes standards for common ownership projects involving both new construction and the conversion of existing structures into condominium units.

20.54.020 Definitions

- A. "Association" or "Home Owners Association" refers to the organization of persons who own a lot, parcel, area, condominium, or right of exclusive occupancy in a residential development.
- B. "Common ownership" and "common ownership project" include the following: a condominium project, as defined in Section 1350 of the Civil Code, containing two or more condominiums, as defined in Section 783 of the Civil Code; a community apartment project, as defined in Section 11004 of the Business and Professions Code, containing two or more rights of exclusive occupancy; a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, containing two or more rights of exclusive occupancy; and a planned development, as defined in Section 11003 of the Business and Professions Code, containing two or more separately owned lots, parcels, or areas.
- C. "Developer" means to the owner or subdivider with a controlling proprietary interest in the common ownership project, or the person or organization making application under this chapter.
- D. "Organizational documents" means the declaration of restrictions, articles of incorporation, bylaws, and any contracts for the maintenance, management, or operation of all or any part of a common ownership project.

20.54.030 Conditional Use Permit

A. Permit Required.

1. Approval of a Conditional Use Permit is required prior to the sale, lease, use, or occupancy of any residential building as common ownership.
2. A Conditional Use Permit is required regardless of the previous use, occupancy, or tenancy of the building, or whether any physical changes have been made to any portion of the building.

B. Application Materials.

In addition to the materials required by Chapter 20.68 (Permit Requirements), a Conditional Use Permit application for a common ownership project shall include the following:

1. The Association's organizational documents.
2. A preliminary annual operating budget containing a sinking fund, which is a fund established by setting aside revenue over a period of time to fund a future capital expense or repayment of a long-term debt, reasonably calculated to accumulate reserve funds to pay for major anticipated maintenance, repair, or replacement expenses.
3. A list of all names and addresses of persons owning property adjacent to or across from the proposed common ownership project.



4. The names and addresses of all tenants presently residing or under contract to reside in the common ownership project.

5. One copy of a preliminary title report of the entire property, including a legal description.

6. A plan showing landscaped and usable open areas, including areas for private or common use and private space dedicated to each unit.
7. Plans showing proposed storage spaces in addition to normal kitchen cabinets, pantries, or clothes closets.
8. The location and screening of any proposed storage of vehicles intended for recreation purposes, including land conveyances, vessels, and aircraft.

9. A structural pest report prepared by a licensed structural pest control firm. This report shall investigate and assess any pest infestations which could relate to structural damage to the building, thereby affecting the health, safety, and welfare of residents.



10. A soils report on new developments and a foundation report on conversions prepared by a licensed soils engineering firm.

11. A report by a licensed engineer or architect relative to compliance with zoning, building, housing, and fire codes.

12. A description of measures to maintain building security and prevent crime.

13. A description of the history of buildings and other improvements, including:

- a. The date of construction of the various components of the community ownership project;
- b. A statement as to the current ownership of all improvements and underlying land and property rights;



- c. A specific list of all major renovation activities since initial construction; and,

- d. The condition and useful life of roof, foundation, mechanical, electrical, plumbing, structural elements, and permanent appliances of all existing buildings and structures.

14. A summary of the rental history of the community ownership project, including size of units, current rental rates over the prior two years, the vacancy rate over the prior two years, and rent increases over the prior two years.

15. Preliminary site plans and architectural elevations and signs.

20.54.040 Organizational Documents

- A. Maintenance and Landscaping.** The organizational documents for a common ownership project shall provide that the Association is responsible for maintenance and landscaping of all parts of the communal ownership project which are held in common and that such maintenance shall be performed to the standard of maintenance prevalent in the neighborhood. The organizational documents shall contain the following language:

“The owners of all parcels subject to these covenants, conditions and restrictions (CC&R’s) recognize that proper maintenance of the Common Area is for the benefit of all citizens of the City of Merced, and that the City of Merced is an intended third party beneficiary of these covenants, conditions and restrictions and may, upon notice and hearing as set forth below, exercise the same powers of enforcement as the Association insofar, and only insofar as said covenants, conditions and restrictions pertain to proper maintenance of the Common Area.”

“In the event the City determines that the Association has not adequately maintained the Common Area, then the City of Merced may give written notice to the Association, which notice shall contain the date for a hearing of the matter (which hearing shall be held no sooner than 15 days after mailing of such notice) and in the event after such hearing the City determines to so act, then the City may perform, or cause the performance of, the maintenance of such Common Area. Any and all costs incurred by the City in so maintaining such Common Area shall be a lien against the maintenance fund and the property subject to assessment, and shall be the personal obligation of the members of the Association.”



“The paragraphs above relating to the rights of the City shall not be amended without the consent of the City of Merced.”

- B. Association Control.** The organizational documents shall allow the Association to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties 3 months after the Association assumes control of the communal ownership project or any time thereafter.
- C. City Attorney Approval.** The organizational documents shall be submitted to the City Attorney for a determination that such documents comply with the requirements of this chapter.

20.54.050 Building and Site Standards

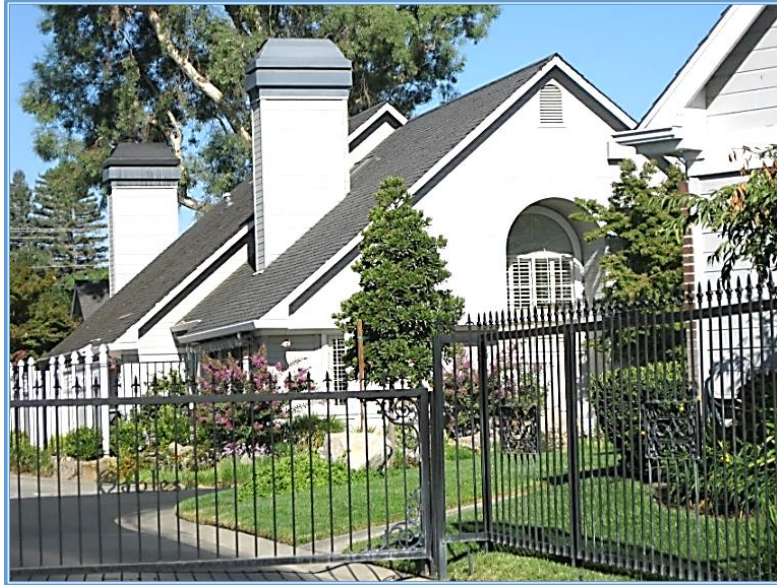
A. All Projects. The following building and site standards shall apply to all common ownership projects.

1. Hydrants.

Hydrants and fire flow shall meet the requirements of Chapter 15.32 of the Merced Municipal Code and the Fire Code.

2. Open Space.

Adequate common and private area (passive and active) open



space amenities shall be provided for residents.

3. Screening. Adequate screening shall be provided for the storage of vehicles intended for recreation purposes, including land conveyances, vessels, and aircraft.

4. Fire Walls and Noise. Wall and floor/ceiling assemblies shall comply with fire wall separation and noise standards as specified in the latest adopted edition of the Building Code.

5. Utility Meters. The consumption of gas and electricity within each dwelling unit shall be separately metered so that the unit owner can be separately billed for each utility. A water shutoff valve shall be provided for each unit. The requirements of this subsection may be waived by the Planning Commission for existing structures if not practical.

B. New Construction. Proposed new construction in common ownership (i.e., new buildings that have not been previously occupied or used) shall comply with the following standard in addition to those in Section A above.

1. Sound Insulation. Wall sound insulation shall comply with the Building Code.

- C. Existing Structures.** Common ownership projects involving existing buildings which have been previously occupied shall comply with the following standards in addition to those in Section A above.
- 1. Notification of Tenants.** The developer shall certify that all tenants in any building or structure have been or will be notified individually and in writing prior to the time of filing of an application under this chapter.
 - 2. Tenant's Pre-Emptive Right.** The developer shall provide each tenant a pre-emptive right to purchase a unit or right of exclusive occupancy. The right shall be irrevocable for a period of sixty days after the commencement of sales or the issuance of the final public report by the real estate commissioner.
 - 3. Property Report.** The developer shall submit a property report describing the condition and useful life of the roof, foundations, mechanical, electrical, plumbing, and structural elements of all existing buildings and structures. The report shall be prepared by a registered civil or structural engineer, or a licensed general building contractor or general engineering contractor.
 - 4. Structural Pest Report.** The developer shall submit a structural pest report. The report shall be prepared by a licensed structural pest control operator pursuant to Section 8516 of the Business and Professions Code, relating to written reports on the absence or presence of wood-destroying pests or organisms.

