

LAURIE CAPITELLI

Berkeley City Council  
District 5

CONSENT CALENDAR

June 12, 2007

To: Honorable Mayor and  
Members of the City Council

From: Councilmember Laurie Capitelli

Subject: Deadline Extension For Condominium Conversion Fee Waiver

RECOMMENDATION:

Adopt first reading of an Ordinance amending BMC 21.28.065: 1) extending the deadline for complete applications for condominium conversion from July 1, 2007 to December 31, 2007 (21.28.065 A2); and 2) Delaying the sunset provision of the TIC exception from July 1, 2007 to December 31, 2007 for those applications in process before May 31, 2007 (all other restrictions apply) (21.28.065 A3)

BACKGROUND:

Because of administrative delays and the time required to make improvements that bring condominiums into conformance with the Building Code (condo conversions are the only type of project where the City inspects for code deficiencies and prior lack of compliance and then requires compliance prior to sale), few if any condominium conversion applicants have been able to meet the July 1, 2007 deadline for the affordable housing fee waiver. This amendment to the municipal code would allow those applicants who have already applied under these terms a reasonable opportunity to complete and submit their applications in order to be eligible for the fee waiver.

FISCAL IMPLICATIONS:

None. It was the City Council's understanding when this provision was passed in 2005 that there would be a limited number of projects – in the case of TICs, no more than fifteen -- that would be eligible for the fee waiver. This measure would allow an extension to those applications already in process.

CONTACT:

Laurie Capitelli, Council Member, District 5, 981-7150

ATTACHMENTS:

Draft Ordinance: "AMENDING BERKELEY MUNICIPAL CODE (BMC) SECTION 21.28.065 TO EXTEND DEADLINE FOR APPLICATION FOR CONVERSION"

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE (BMC) SECTION 21.28.065 TO  
EXTEND DEADLINE FOR APPLICATION FOR CONVERSION

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 21.28.065 is amended to read as follows:

**21.28.065 Affordable housing fee exemptions--Further reduction in fee.**

A. Exemptions. The following shall be exempt from the payment of any affordable housing fee:

1. Any already existing inclusionary unit which was required to be created under the City's inclusionary zoning ordinance.

2. In properties where the initial request for selection was made prior to June 16, 2005 and the property would have been exempt from the affordable housing mitigation fee under the ordinance then in effect, the property shall continue to be exempt from this fee as long as the subdivision application is complete by ~~July 1,~~ December 31, 2007.

3. Residents who are owners as tenants in common of buildings containing five or fewer dwelling units as of May 10, 2005, shall be exempt from the affordable housing mitigation fee required by this section, as well as the quota set forth in Section 21.28.090, provided that such resident owners have used the unit as their principle place of residence since January 1, 1995, and have formally begun the application process before May 31, 2007, provided that no more than 15 dwelling units may be subject to this exemption on a first come, first-served basis. This provision shall sunset on ~~July 1,~~ December 31, 2007 or once 15 units have received a fee waiver, whichever comes first.

B. Further Reductions in Affordable Housing Fee. There will be further reductions in the affordable housing fee as follows:

1. If the owner converting the property agrees to limit future rent increases for current tenants to no more than 65% of the increase in the Consumer Price Index for all Bay Area Consumers after conversion, then the affordable housing fee shall not exceed 12.5% of the sales price of the unit.

2. In two, three and four unit properties the maximum affordable housing fee for any unit shall be reduced by one and one-quarter percent (1.25%) for each year that an owner has lived in the unit or previously rented another unit in Berkeley as their principal place of residence.

3. In two unit owner-occupied properties with a rental unit that is exempt from both rent stabilization and good cause for eviction the maximum fee on either unit shall be five percent. (Ord. 6950-NS § 1, 2006: Ord. 6918-NS § 1, 2006: Ord. 6882-NS § 1 (part), 2005)

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.