



Office of the City Manager

PUBLIC HEARING
May 23, 2023

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services
Subject: Fee Increase: Condominium Conversion Program Application Fee

RECOMMENDATION

Conduct a public hearing and upon conclusion adopt a Resolution to increase the Condominium Conversion Program application fee by \$30 to \$310 per application, and the supplementary application fees for units currently rented by \$40 to \$420 per unit, and applications deferring the mitigation fee by \$95 to \$1,040 per unit.

FISCAL IMPACTS OF RECOMMENDATION

Fees for processing condominium conversion applications by the City of Berkeley's Department of Health, Housing, and Community Services (HHCS) were established in 2017 at the current levels of \$280 per project, plus \$380 per unit *or* \$945 per unit if certain conditions are met (the unit is currently rented out and/or the owner defers mitigation fee payment). There has been no fee update since this time.

Staff recommend increasing the fee to reflect the new costs of service to \$310 per project (an 11% increase), plus \$420 (an 11% increase) per unit *or* \$1,040 per unit (a 10% increase) if the unit is currently rented out and/or the owner defers mitigation fee payment. Whether regulatory documents are required depends on whether there are tenants and which payment option the owner selects. As an illustration, a 3-unit project would pay between \$1,570 and \$3,430 total. These proposed fees equate to the cost necessary to cover staff time to complete the process.

Condominium Conversion program management was previously assigned to an Associate Planner classification in HHCS's Housing and Community Services Division (HHCS/HCS). This work has been assigned to the Community Development Project Coordinator (CDPC) classification, as part of changes in the division to ensure more depth of staffing and consistency of program delivery. The fee is calculated using the same number of hours per task as in 2017 and an updated inclusive hourly rate of \$88.70.

The current and proposed fees and the basis for their calculation are presented in the following table.

	<u>Hours to complete tasks</u>	<u>Cost to provide service</u>	<u>Current Fees</u>	<u>Proposed Fees</u>
Fees due at application:				
HHCS Project Application Fee	3.5	\$310	\$280	\$310
HHCS per unit fee (total fee for projects paying before recording the subdivision for vacant or owner-occupied unit)	4.75	\$421	\$380	\$420
Per unit fees for projects with tenants/deferring payment:				
Per Unit Addition for projects paying the fee before recording with current tenants/deferring payment of fee until selling the units at a later date (due at time of subdivision)	11.75	\$1,046	\$565 (\$380+\$565=\$945 total per unit)	\$620 (\$420+\$620=\$1,040 total per unit)

*calculation based on hours of staff time x CDPC Step C salary + benefits

Over the past five years, an average of five new Condominium Conversion applications are submitted annually. Applicants have the discretion to pay the mitigation fee at the time of application or defer the fee until the unit is sold. These decisions typically depend on market conditions, and whether units are tenant-occupied. The proposed new fee structure, of \$310 per application, and additional per unit fees of either \$420 or \$1,040 per unit, will not exceed the costs of service.

The proposed fee was calculated by applying the hourly staff time rate to the hours needed to complete each task, outlined in the table above. Fees will be deposited into Fund 123-Condo Conversion Program.

CURRENT SITUATION AND ITS EFFECTS

In 2017, the City Council adopted Resolution 67,982-N.S. to fund HHCS staff time on Condominium Conversion applications.

The City's Condominium Conversion ordinance allows owners to convert their properties into condominiums subject to certain conditions; including paying a mitigation fee for removing housing from the rental market (BMC 21.28). HHCS staff perform a variety of duties to complete Condominium Conversion applications, protect tenant rights (if applicable), and secure the required mitigation fees. This includes:

- Review the application materials submitted;
- Work with the applicant to explain the options for paying the fee;
- Draft regulatory agreements and work with applicants to finalize them;
- Draft escrow instructions and coordinate with title companies managing escrow;
- Analyze project details to calculate the mitigation fee;
- Draft mitigation fee demand letters;
- Collect and track payments; and
- Manage the execution of the required agreements.

This proposal allowed HHCS to collect fees for the staff time needed to complete new applications consistent with Planning and the Rent Board's fee schedule for condominium conversions. The proposed fee updates are needed to reflect actual cost increases since 2017.

BACKGROUND

The Condominium Conversion ordinance includes protections for existing tenants and allows owners to pay a discounted mitigation fee at the time they subdivide the property or wait until they sell the property at a later date to pay the full fee. These decisions affect the amount of staff time required for applicant support and drafting required legal agreements. Mitigation fees collected are deposited into the Housing Trust Fund program. Applicants are also charged fees for the Planning and Rent Board work on applications.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no immediate environmental impacts associated with the adoption of this fee.

RATIONALE FOR RECOMMENDATION

The proposed fee increase reflects the actual increases in costs since 2017 as outlined above.

ALTERNATIVE ACTIONS CONSIDERED

The City could continue to perform the tasks and charge the current fee at a deficit for costs of services. The gap will need to be covered by the General Fund.

Fee Increase: Condominium Conversion Program Application Fee

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CONTACT PERSON

Anna Cash, Community Development Project Coordinator, HHCS, (510) 981-5403

Attachments:

1: Resolution

Exhibit A: Condominium Conversion Application Proposed Fee Schedule

2: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

ADOPTING AN INCREASE FEE SCHEDULE FOR THE CONDOMINIUM CONVERSION APPLICATION FOR SERVICES PROVIDED BY THE DEPARTMENT OF HEALTH, HOUSING, AND COMMUNITY SERVICES

WHEREAS, Berkeley Municipal Code section 21.28, the Condominium Conversion Ordinance, allows property owners to subdivide rental properties under certain conditions; and

WHEREAS, the Department of Health, Housing, and Community Services provides staffing to implement the requirements of the Condominium Conversion Ordinance; and

WHEREAS, Berkeley Municipal Code section 21.28.120 allows the City Council to set fees for the administration and implementation of the ordinance; and

WHEREAS, Berkeley Resolution no. 67,982-N.S. allows City Council to set fees for the adoption of Condominium Conversion application fee schedule for services provided by the Department of Health, Housing, and Community Services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City adopts the Department of Health, Housing, and Community Services updated Condominium Conversion application fee schedule attached as Exhibit A, effective July 1, 2023.

BE IT FURTHER RESOLVED that the fee schedule will remain valid for a Department of Health, Housing, and Community Services successor agency, if any.

Exhibits

A: Condominium Conversion Application Proposed Fee Schedule

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Exhibit A: Condominium Conversion Application Proposed Fee Schedule

Applicable Fee	Fee Amount
Fees due at application:	
HHCS Project Application Fee	\$310
HHCS per unit fee	\$420
Fees due at the time of subdivision:	
Per Unit Addition for projects with current tenants/deferred fees	\$620 (\$1040 total per unit)

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**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL
INCREASE APPLICATION FEE FOR CONDOMINIUM
CONVERSION PROGRAM**

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Health, Housing, and Community Services is proposing to increase the condominium conversion new application rates.

Applicable Fee	Current Fees	Proposed Fees
Fees due at application:		
HHCS Project Application Fee	\$280	\$310
HHCS per unit fee	\$380	\$420
Fees due at the time of subdivision:		
Per Unit Addition for projects with current tenants/deferred fees	\$565 (\$945 total per unit)	\$620 (\$1040 total per unit)

The hearing will be held on, MAY 23, 2023 at 6:00 p.m. in the School District Board Room, 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Anna Cash at 510-981-5403.

A copy of the agenda material for this hearing will be available on the City’s website at <https://berkeleyca.gov/> as of May 11, 2023. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service

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or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on May 11, 2023.

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Mark Numainville, City Clerk