

2007-Or-____

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

By Gordon

Amending Title 12, Chapter 250 of the Minneapolis Code of Ordinances relating to Housing: Condominium Conversions.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 250 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 250.05 to read as follows:

250.05. Findings. The Minnesota State Legislature has recognized that a lack of affordable housing in a city is an important concern as it relates to condominium conversions; therefore, it enacted Minnesota Statutes Section 515B.1-106(c), which authorizes a home rule charter city to impose reasonable conditions upon the conversion of buildings to condominiums as long as there exists within the city a significant shortage of suitable rental dwellings available to low and moderate income individuals or families.

It is hereby found that there exists within the City of Minneapolis a significant shortage of suitable rental dwellings available to low and moderate income individuals and families. This finding is based on the following statistics:

- (1) According to the Department of Housing and Urban Development and based on the 2000 Census, Minneapolis has 37,847 low income (less than or equal to 50% area median adjusted by size) households that pay more than 30% of their income for rent or live in overcrowded housing or housing lacking basic facilities. Of these, 27,992 were renter households, 35% of all renter households in the City;
- (2) According to the 2005-2009 Minneapolis Consolidated Plan, Minneapolis has a shortage of 13,499 units of housing affordable to households earning below 30% of Metropolitan Median Income; and
- (3) As of January 2007, there are approximately 10,999 households, 5,557 of which are families, on the waiting list for Minneapolis Public Housing Authority affordable housing units.

The existing shortage of affordable housing has been impacted by the conversion of rental units to condominiums in the City. According to the Community Planning and Economic Development (CPED) Department, at least 283 affordable units were converted between 2001 and 2005, or 23% of the total conversions in that time period. The City has recognized preservation as a top priority in meeting the affordable housing needs of its residents. The CPED Housing Policy & Development Division lists the preservation of currently affordable

housing as one of its top priorities. The City's adopted "Ten-Year Plan to End Homelessness in Minneapolis and Hennepin County," passed by the Minneapolis City Council on December 1, 2006, identifies the "shortage of affordable housing" as one of nine "root causes of homelessness." The report calls for the City to "ensure the preservation of current affordable and supportive housing." Furthermore, preservation is more cost-effective than new construction. According to the City's latest round of Affordable Housing Trust Fund applications, the average total development cost of a new affordable rental unit was \$195,572. The City of Minneapolis, by adopting this ordinance, intends to preserve affordable units that may otherwise be lost through the condominium conversion process, while protecting the rights of the existing residents in the converted buildings and ensuring that the buyers of the converted units are financially protected through better inspections and ample reserves.

Section 2. That Section 250.20 of the above-entitled ordinance be amended to read as follows:

250.20. Application of chapter to conversion of condominiums. The chapter shall apply only to conversion condominiums for which the declaration creating a condominium under Minnesota Statutes has been recorded on or after ~~November 3, 1979~~ August 1, 2007.

Section 3. That Section 250.30 of the above-entitled ordinance be amended to read as follows:

250.30. Notice of conversion to council member of the ward and Minneapolis planning commission. Notice of intent to convert; application for permit. ~~On the date of giving of the first notice of conversion~~ Prior to giving the notice of a conversion as provided in Section 250.40 hereof, the declarant shall send by United States mail to the council member of the ward in which the conversion condominium is located and to the Minneapolis Planning Commission Department of Regulatory Services written notice of conversion, which states the fact of conversion or intent to convert. The declarant shall also apply for a permit to convert in a manner prescribed by the Department of Regulatory Services. The application shall include the following information:

(a) The intent to convert and the address or addresses of the affected housing units;

(b) The number of units in the building and the number of units to be affected by the conversion, and for each such unit: (1) the number of bedrooms, (2) the current rent or most recent rental data available, and (3) the projected purchase price of the converted unit;

(c) The number of occupied units in the building at the time of the permit request and the number of occupied units one year prior to this request;

(d) A description of all repairs and capital improvements to be made;

(e) A commitment to obtain a truth-in-housing report for individual units prior to the sale of each unit;

(f) A commitment to obtain a professional opinion of the common areas of the building;

(g) A commitment to obtain a reserve fund study pursuant to Section 260.75;

(h) A commitment to comply with the provisions of Section 250.130, if applicable;

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(i) A commitment to provide the relocation assistance required by Section 250.40, if applicable, and a description of the number of eligible residents to receive relocation assistance;

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(j) A completed affordability worksheet and preliminary determination whether the declarant will follow subsection a, b or c of Section 250.130, if applicable; and

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(k) A copy of the proposed Notice pursuant to Section 250.40.

The Minneapolis Department of Regulatory Services shall make this information available to the public. The notice and permit application shall be accompanied by payment of a fee in the amount of \$2000 per first unit to be converted and \$800 for every unit thereafter, as prescribed by the Department of Regulatory Services plus SAC charges.

Section 4. That Chapter 250 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 250.35 to read as follows:

250.35. City approval of conversion. (a) The notice of conversion to occupants, referred to in Section 250.40, may not be delivered until the Minneapolis Department of Regulatory Services has issued a permit to the declarant. The Department shall issue a permit for any proposed conversion upon: a) finding that the proposed notice meets the requirements of this ordinance; b) finding that a disclosure report has been done for individual units being offered for sale and professional opinion for all common areas prepared for the building and all units pursuant to Section 248.70; and c) making the determination if Section 250.130 is applicable by applying the definition of affordability as defined in that Section to the rent levels prior to conversion.

(b) The declarant shall notify the Department of Regulatory Services when Section 250.130 has been met, if applicable.

Section 5. That Section 250.40 of the above-entitled ordinance be amended to read as follows:

250.40. Notice to occupants. A declarant of a conversion condominium which has been created or is intended to be created shall give the occupants of the building notice of conversion which states the fact of conversion or the intent to convert at least one hundred twenty (120) days, or in the case of a unit with an occupant on the date of delivery of the notice who is ~~sixty-five two~~ (652) years of age or older, under the age of eighteen (18), or who is legally handicapped as defined under Minnesota Statutes, one hundred eighty (180) days, before the declarant will require such parties to vacate. The notice shall be delivered once with respect to each unit and shall have attached thereto a copy of this Chapter 250 and a form of purchase agreement setting forth the terms of sale contemplated by Section 250.50 hereof. No occupant may be required by the declarant to vacate during said one hundred twenty- or one hundred eighty-day period, except by reason of nonpayment of rent, waste or unlawful conduct, or violation of any other term or condition of lease other than the expiration, and the terms of the tenancy may not be altered during that period. Failure of a declarant to give notice as required by this section constitutes a defense to an action for possession. After notice of conversion has been given to any unit, the declarant shall thereafter notify any new tenant who leases any unit in the building from the declarant that the building is or is to become part of a condominium.

Occupants entitled to receive a notice under this section who reside in a building that qualifies for Section 250.130 protections, are entitled to a relocation payment equivalent to three months' current rent, unless the occupants are required to vacate prior to the expiration of the notice period or lease term, whichever is later, for any of the reasons stated above. Rent is defined as the total amount that is collected for the unit not the amount the occupant pays. The relocation payment must be paid in one lump sum no later than the date the occupant vacates. This right to a relocation payment cannot be waived by any agreement.

The notice referred to in this section shall either be accompanied by the disclosure statement required by Minnesota Statutes Section 515B.4-102 or shall provide the resident with notice of a buyers' right to a disclosure statement pursuant to Minnesota Statutes Sections 515B.4-101, .102 and .106.

The notice referred to in this section shall state that a tenants' association may be formed for the purpose of making an offer to purchase the property which is the subject of the conversion condominium. The provision contained in the preceding sentence does not create a right on the part of such tenants' association to purchase such property or an obligation on anyone to negotiate with, finance or arrange financing for, or sell such property to such tenants' association.

Section 6. That Chapter 250 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 250.45 to read as follows:

250.45. Violations. A violation of any provision of this chapter shall be and constitute a misdemeanor, punishable as provided in Section 1.30. Violations may also be subject to the administrative enforcement and hearing process contained in Chapter 2.

Section 7. That Section 250.50(c) of the above-entitled ordinance be amended to read as follows:

(c) Nothing in this section permits termination of a lease by a declarant in violation of its terms. The rights conferred by this section are subject to any purchase agreement or other contract existing prior to ~~November 3, 1979~~ August 1, 2007.

Section 8. That Section 250.50 of the above-entitled ordinance be amended by adding thereto new subdivisions (d) and (e) to read as follows:

(d) The form of purchase agreement referred to in paragraph (a) above shall include any parking or storage space or similar amenity which the declarant intends to make available generally to buyers.

(e) The form of purchase agreement referred to in paragraph (a) above shall not require: (1) representation of the buyer by the declarant or seller or an agent or affiliate of the declarant or seller or (2) waiver of the right to an inspection or of an inspection addendum.

Section 9. That Section 250.70 of the above-entitled ordinance be amended to read as follows:

250.70. Implied warranties. (a) A declarant warrants that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

(b) A declarant impliedly warrants that a unit and the common elements in the condominium are suitable for the ordinary uses of real estate of its type and that any improvements or repairs made or contracted for by the declarant or made by any person in contemplation of the creation of the condominium will be:

(1) Free from defective materials; and

(2) Constructed in accordance with applicable law, according to sound engineering and construction standards, and in a professional manner.

(c) In addition, a declarant warrants to a purchaser of a unit which may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

(d) Warranties imposed by this section may be excluded or modified as specified in section 250.80.

(e) For purposes of this section, improvements or repairs made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.

(f) Any conveyance of a unit transfers to the purchaser all or any of declarant's implied warranties of quality.

Section 10. That Chapter 250 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 250.75 to read as follows:

250.75. Reserve Fund Study. (a) Each declarant shall establish a fully-funded reserve plan, to be updated every twelve (12) months during any period of declarant control, to cover the replacement of those parts of common elements and limited common elements which the association is obligated to maintain, repair or replace.

(b) The amount the declarant shall place in the reserve fund shall be based on the current reserve fund plan and current age of the common elements, which shall be determined by a reserve fund study, to be completed at the same time as the Section 250.120 reports. The study shall at a minimum include:

(1) Identification of the common elements which the association is obligated to maintain, repair, or replace, which shall include, but is not limited to, the roof, windows, patio doors, boiler, air conditioning systems, parking ramp, elevators, carpeting, exterior façade items, etc. as those elements exist;

(2) Identification of the probable useful life and remaining useful life of the common elements identified in paragraph (1) as of the date of the study;

(3) An estimate of the cost to replace the common elements identified in paragraph (1) at the end of their useful life;

(c) The declarant shall contribute to the reserve fund a percentage of the cost to replace each element equal to the age of the element divided by the total useful life of the element. For

example, if an element has a 20-year useful life and has 15 years of remaining useful life, the declarant must contribute 25% of the cost of replacement of that element to the reserve fund. The same calculation must be done for each common element identified in (b)(1) in order to calculate the total amount the declarant must contribute to the reserve fund.

(d) The professional opinion provided pursuant to Section 250.120 may serve as the basis for items (1) and (2). If the declarant chooses to obtain a separate opinion for the reserve fund study, it must be completed by a professional architect or engineer, licensed in this state, or other qualified professional willing to certify the report as accurate.

Section 11. That Section 250.100 of the above-entitled ordinance be amended to read as follows:

250.100. Right to rescind. A lessee may rescind a purchase agreement of a unit offered for sale hereunder by delivering to the declarant at the address stated in the purchase agreement by registered or certified United States mail, postage prepaid, a written notice of rescission within five (5) days of execution of such an agreement by the lessee. Upon receipt of such a notice of rescission the declarant shall promptly refund any earnest money received, without deduction therefrom or interest thereon, whereupon the purchase agreement shall become null and void. The rights under this section are in addition to the rights afforded purchasers under the Minnesota ~~Uniform Condominium Act~~ Common Interest Ownership Act, Article 4.

Section 12. That Chapter 250 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 250.130 to read as follows:

250.130. Affordable Housing Protections. If the average rents in a building within twelve (12) months prior to the notice required by Section 250.30 are at or below one-twelfth (1/12th) of 30% of 50% of the area median income adjusted by size (1.5 persons per bedroom), including all utilities, then a condominium conversion shall only be permitted if the declarant makes a commitment to meet one of the following conditions:

(a) Buy-in Requirement. At least fifty-one percent (51%) of the bona fide tenants in occupancy of all units in the building or group of buildings or development on the date the notice pursuant to Section 250.30 was delivered have executed and delivered the purchase agreement provided pursuant to 250.50 to the declarant; or

(b) Affordable Housing Fee Requirement. The declarant shall pay an affordable housing fee not to exceed ten percent (10%) of the sales price of each unit. If prior to conversion, the entire building is rent subsidized through any federal, state or local program, the fee shall increase to twenty percent (20%) of the sales price of each unit. The fee for conversion of a rental unit shall be based on a sales price that is no lower than 100% of the appraised value of the unit as a condominium at the time of conversion. If units are sold at prices below this level, the affordable housing fee must be paid in the same amount as if the unit were sold at 100% of the current appraised value. The fee shall be due immediately upon closing of each unit, and all of the sums collected pursuant to this Section shall be placed in the Affordable Housing Trust Fund of the City and shall be used solely to finance needed permanently affordable low and moderate income housing to help meet the City's housing goals and policies. Failure to pay the affordable housing fee may subject the declarant to criminal penalties pursuant to Section 250.45; or

(c) Retain Affordable Units in Building. The declarant shall offer for sale to a nonprofit or public body twenty percent (20%) of the units of each converted building of ten or more units and such nonprofit or public body will make those units available to households earning 50% or less of the MMI. The offer for sale period shall last for sixty (60) days following the close of the sixty-day (60) option to purchase period under Section 250.50. These units must remain affordable for a minimum term of 15 years. It is understood that these affordable units may include any mix of rental and/or homeownership and must be located on the project site. If the converted building is less than ten units or no nonprofit or public body purchases the units, the declarant must meet (a) or (b) above.