

TOWN OF SAN ANSELMO

ORDINANCE NO. 783

AN ORDINANCE OF THE TOWN OF SAN ANSELMO ADDING CHAPTER 7 TO
TITLE 10 OF THE SAN ANSELMO MUNICIPAL CODE REGULATING CONDO-
MINIUM CONVERSIONS

The Town Council of the Town of San Anselmo does ordain as follows:

Section 1. Chapter 7 - Condominium Conversions is hereby added to Title 10 of the San Anselmo Municipal Code to read as follows:

CHAPTER 7

CONDOMINIUM CONVERSIONS

Section 10-7.01. Purpose.

(a) The Town Council finds condominiums and the like to be different from apartments and like structures, and intends to treat such projects differently by adopting conversion regulations for the protection of the community, displaced tenants and purchasers.

(b) These provisions are enacted to insure that proposed conversions are approved consistent with policies and objectives of the Town of San Anselmo, particularly the following:

- (1) To make adequate provision for the housing needs of all economic segments of the community;
- (2) To facilitate inhabitant ownership of residential units.
- (3) To provide a reasonable balance of rental and ownership housing.

Section 10-7.02. Definitions.

For the purpose of this Chapter, the following definitions shall apply:

(a) Association. Association is the organization of persons or entity which owns a unit or units in a condominium project or right of exclusive occupancy in a community apartment or stock cooperative and every such owner shall be a member of the Association.

(b) Common Area. Common area is an entire condominium project excepting all units therein.

(c) Community Apartment Project. A project in which an undivided interest in the land is coupled with the right of exclusive occupancy of any apartment located thereon.

(d) Condominium. An estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in space in a building on such real property, such as residence, apartment, or apartment house. A condominium may include, in addition, a separate interest in other portions of such real property and is more particularly defined in Civil Code Section 783.

(e) Condominium Conversion Project. The conversion or subdivision of a single ownership parcel of existing improved real property, including but not limited to a structure containing two or more dwelling units, into a form of ownership for residential purposes involving the right of exclusive occupancy or separate ownership of individual units, including but not limited to condominiums, community apartments, stock cooperatives or planned unit developments (hereinafter PROJECT).

(f) Developer. Developer is the owner or subdivider with a controlling proprietary interest in the proposed condominium project.

(g) Organizational Documents. Organizational documents are the Declaration of Covenants, Conditions, and Restrictions; Articles of Incorporation, By-Laws, and

any contracts for the maintenance, management, or operation of all or any part of the project.

(h) Project. Project as used in this Chapter refers to condominium conversion project.

(i) Planned Development. A planned development essentially consists of separate lots and common areas or reciprocal interests or restrictions upon separately owned lots and is more particularly defined in Section 11003 and Section 11003.1 of the California Business and Professions Code and subsequent amendments thereto.

(j) Recreational Open Space. Recreational open space is an undivided interest in common in open space on the project (exclusive of the required front setback area and any area fenced for the use of an individual unit) which shall be used exclusively for leisure and recreational purposes, for the use and enjoyment of occupants and their visitors of units on the project and to which such occupants and their visitors shall have the right of use and enjoyment. Accessory structures such as swimming pools, recreational buildings, and landscaped areas are examples of uses of recreational open space.

(k) Stock Cooperative. A stock cooperative is a corporation formed for the purpose of holding title to improved real property with shareholders receiving the right of exclusive occupancy in a portion of the real property and is more particularly defined in Section 11003.2 of the California Business and Professions Code.

(l) Tenant. A person who rents, leases or subleases, through either a written or oral agreement, real property from another.

(m) Unit. Unit before condominium conversion is any one rental unit in the project. After conversion unit is the element of a condominium conversion project which is not owned in common with the other owners of the project, or is an apartment in a community apartment project or stock cooperative to which an owner of an undivided interest in common in a community apartment project has a right of exclusive occupancy.

Section 10-7.03. Use Permit Required.

No condominium conversion project shall be permitted in the Town of San Anselmo unless and until a use permit has been applied for and issued pursuant to and in accordance with the provisions of the San Anselmo Municipal Code, Article 20 of Title 10.

Section 10-7.04. Use Permit Application.

In addition to such other application requirements as the Planning Commission may deem necessary, no application for a project shall be accepted for any purpose unless the application includes but is not limited to the following:

(a) Sufficient copies of plans illustrating the following details shown to scale:

- (1) Site plan illustrating the location of buildings, parking areas, circulation systems, recreational facilities, open space, patios, etc.;
- (2) Floor plans for each unit type;
- (3) Fully dimensional elevation plans of the structures, showing the architectural features and types and materials for construction;
- (4) Landscaping and irrigation plans illustrating the existing system and any proposed modifications and a statement specifying the manner by which the landscaping areas shall be maintained.
- (5) The location, height, and type of materials for exterior walls or fences.
- (6) The location, structural section, and type of surfacing for all driveways, pedestrian ways, vehicle parking areas, curb cuts and storage areas.

- (7) The location and description of all recreational facilities and a statement specifying the method of the maintenance thereof.
- (8) The location, size and number of parking spaces to be used in conjunction with each condominium unit for residents and guests.
- (9) The location, type and size of all drainage pipes and structures.
- (10) The location, type and size of all on-site and adjacent overhead and underground utility lines.

(b) Sufficient copies of the proposed covenants, conditions, and restrictions which will apply to the proposed development which include:

- (1) Provisions subject to approval of the Planning Director for the maintenance of the common areas and the exterior of all structures and walls of any such project.
- (2) A statement that the Town has the right but not the duty to enforce said Conditions, Covenants and Restrictions (CC&R's) in the event of default in the maintenance of such areas by individual owners of the units, including a provision that attorney's fees and costs incurred thereby shall be reimbursed to the Town.
- (3) Provisions establishing each individual unit owner's exclusive right to use of designated parking spaces for each unit.
- (4) A statement that compliance with the Town's tree removal provisions contained in Chapter 3 of Title 4 is required.
- (5) The covenants as required of the developer as provided in Section 10-7.07.

(c) A list prepared under penalty of perjury by Developer, including the names and addresses of all tenants residing in the project proposed to be converted to condominiums at the time the application is filed, including but not limited to, commencement and expiration dates of the leases of said tenants and total number of project occupants.

(d) Sales information: Anticipated range of sales prices of individual dwelling units based on information known at the time of application; anticipated terms of sale to existing tenants; and a statement as to whether sales will be permitted to families with minor children.

(e) A building elements report describing in detail the condition and useful life of all existing buildings and structures including but not limited to the following:

Electrical, plumbing, and structural elements of all existing buildings and structures. Such report shall be prepared by a registered civil or structural engineer, licensed contractor, or a licensed architect for the applicable portion of the report.

(f) A descriptive report containing acoustical test data which indicates the noise attenuation characteristics of existing party walls, floors and ceilings, including but not limited to a sampling of at least ten percent (10%) of the dwelling units involved, but in no case fewer than two dwelling units. Such report shall be compiled by a qualified person experienced in the field of acoustical testing and engineering as determined by the Planning Director. The report shall provide a comparative analysis of the test data as it relates to state and local noise attenuation requirements.

(g) Additional information as determined necessary by the Planning Director.

Section 10-7.05. Notification.

Written notices shall be posted by the Planning Department in a conspicuous location on the site of the proposed condominium conversion and shall be mailed by the Planning Department first-class prepaid postage to all tenants residing in the proposed condominium conversion project not less than ten (10) days prior to any hearing by the Planning Commission or the Town Council concerning the project. Such notices shall provide, at least, the following:

- (1) The date, time, place and purpose of the hearing.

- (2) That should the use permit for the conversion project be approved, the property owner may require the tenants to vacate the premises.
- (3) That should the use permit for the conversion project be approved, the developer shall give all tenants the notification required by Section 10-7.06 (b)(10) & (11).
- (4) That all information and reports furnished to or by the Planning Department pursuant to this Chapter shall be on file for public inspection during reasonable business hours in the Planning Department and the San Anselmo Public Library.

Section 10-7.06. Conditions for Approval of Use Permit.

(a) The Planning Commission shall first consider information regarding the percentage of housing available for rental within the Town of San Anselmo. Proportion of multi-family rental units (exclusive of second units) below 25 percent of the total number of housing units in the Town shall constitute a housing emergency and shall preclude any processing of applications for conversions of apartment buildings. The proportion of housing available for rental shall be calculated annually by the Planning Department which may be supplemented by a report by a qualified marketing survey research firm submitted by an applicant for review by the staff and the Planning Commission.

(b) The Planning Commission may approve use permits for Condominium Conversion Projects subject to, but not limited to, the following conditions:

- (1) Off-street parking. Compliance with existing legal off-street parking requirements for the use prior to conversion.
- (2) Private open space. An outdoor private area shall be provided contiguous with each residential ground level unit.
- (3) Recreational open space. Recreational facilities or recreational open space shall be reviewed for its adequacy for the development.
- (4) All permanent mechanical equipment, excluding domestic appliances, which are determined by the Building Inspector to be a potential source of vibration or noise, shall be installed or modified as approved by the Building Inspector to lessen the transmission of vibration and noise.
- (5) (a) A shut-off valve for each utility shall be provided for such unit if deemed practical by the Building Inspector.
 (b) The consumption of gas, electricity, and Cable T.V. within each dwelling unit shall be separately metered so that the unit owner can be separately billed for each utility except that upon determination by the Building Inspector that such separate metering valve would not be practicable at the time of the use permit approval, the Building Inspector may approve an equivalent alternative metering system.
 (c) Sanitation facilities shall be converted subject to the requirements of the Uniform Building Code. The association (as that term is defined in section 10-7.02 (a) above) shall be responsible for the maintenance of the private sewer system from the junction with public sewer system to and throughout all buildings and structures comprising the conversion project.
- (6) All systems of the structures, including but not limited to structural, electrical, plumbing, mechanical, fire and life safety shall comply with all applicable statutes, ordinances, rules and regulations.
- (7) Each dwelling unit shall have a separate hot water heater unless there is one central circulating water heating system serving all dwelling units on the property, such system shall provide sufficient capacity to serve all dwelling units. The Building Inspector shall determine that said heating system is adequate.
- (8) Each unit shall be separated from adjacent units by two, one-hour fire walls or an approved automatic fire sprinkler system approved by the Town of San Anselmo Fire Department. Alternate methods which achieve a two-hour equivalency rating may be considered if approved by the Fire Department.

- (9) All dwelling units shall comply with current statutes, ordinance, codes, rules and regulations for energy conservation, sound transmission control and fire detection systems that apply to new residential construction except that the Building Inspector may approve an alternative material, method, or work provided he determines and finds that such alternative material, method or work offered is at least equivalent to that prescribed by the applicable statutes, ordinances, rules, codes, and regulations in quality, strength, effectiveness, fire resistance, durability and safety.
- (10) The developer shall mail written notice to all tenants residing in the project within fifteen (15) days after approval of any condominium conversion project. Such notice shall state all of the conditions of approval of the use permit for the condominium conversion project.
- (11) In accordance with Section 66427.1 of the Government Code and any subsequent amendments thereto, the developer shall give all tenants of the proposed condominium conversion project at least one hundred twenty (120) days' advance written notice including but not limited to the following:
 - (a) Termination of their tenancy due to conversion;
 - (b) The exclusive right of first refusal to purchase a unit at the time said units are offered to the general public and upon at least as favorable terms and conditions as said units are first offered to the general public;
 - (c) Lease offerings per subsections (13) & (14) of this section.
- (12) All projects involving site or exterior changes shall receive design review approval by the Planning Commission. Such review shall focus on but is not limited to the upgrading of the project, the functional design of the site, adequacy of landscaping, color scheme, materials and other issues deemed appropriate.
- (13) Each current tenant shall be offered an 18 month lease at the rental rate in effect for his unit 12 months prior to the date of conversion, plus not to exceed the percentage increase over said 12 months in the residential rent component of the San Francisco/Bay Area All Urban Consumer Price Index.
- (14) Each current tenant who is 60 years of age or older or who is handicapped shall be offered a five year lease, for the first year at the rental rate in effect for his unit 12 months prior to the date of conversion, plus not to exceed the percentage increase over said 12 months in the residential rent component of the San Francisco/Bay Area All Urban Consumer Price Index. For the second through the fifth year, the rental rate may be increased by not more than the annual percentage increase in the residential rent component of the San Francisco/Bay Area All Urban Consumer Price Index.

Section 10-7.07. Alternate Conditions for Approval of Use Permit.

(a) Notwithstanding Section 10-7.06(a) an application may be processed if the proportion of multi-family rental units (exclusive of second units) is above 20 percent of the total number of housing units in the Town and if all the following conditions are met:

- (1) In addition to the requirements of Section 10-7.04, the application includes covenants by the developer to all current tenants in accordance with subsection (3) of this section.
- (2) Three-fourths or more of the current tenants of the rental units by a written instrument approve and accept said covenants, with only one such written instrument per unit.
- (3) Covenants by the developer include all of the following:
 - a. to each tenant household a right of first refusal to purchase a unit at a price and under terms and con-

ditions set forth in the application including for each unit or type of unit selling price, minimum down payment, closing or other incidental costs if any, terms of financing the balance (including rate of interest, maximum term of mortgage, monthly cost of principal and interest and provisions for prepayment and refinancing), estimated property taxes for the next succeeding full tax year, and monthly maintenance charge for the first year (subject to change thereafter only by majority vote of the owner's association);

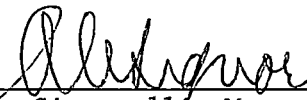
b. to each tenant household which within a reasonable stated time does not exercise its preemptive right, a right to continued tenancy for a minimum period of five years at a rental rate not to exceed that in effect for the unit twelve months prior to the date of conversion increased by no more than the annual percentage change in the residential rent component of the San Francisco Bay Area Consumer Price Index;

(4) The use permit is subject to the finding by the Planning Commission that the public interest is better served by such conversion.

(b) An application processed under this section shall be subject to the conditions set forth in Section 10-7.06 (b)(1) through(12);

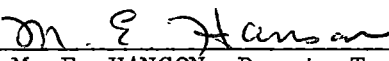
(c) The covenants required by this section shall be incorporated in Conditions, Covenants and Restrictions (CC & R's), which CC & R's the Town has the right but not the duty to enforce, including recovery of attorney's fees and court costs.

Dated: April 8, 1980.



A. C. Signorelli, Mayor

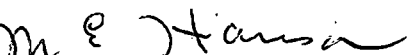
ATTEST:



M. E. HANSON, Deputy Town Clerk

The foregoing ordinance was read and introduced at a regular meeting of the San Anselmo Town Council held on March 25, 1980 and adopted at a regular meeting of the San Anselmo Town Council held on April 8, 1980 by the following vote:

AYES: Councilmen Toal, Convis, Capurro, Signorelli
NOES: None
ABSENT: Councilman Reed



M. E. HANSON, Deputy Town Clerk