

CHAPTER 165.90 CONDOMINIUM AND COOPERATIVE CONVERSIONS

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165.90.010 Definitions

This section shall be known and may be cited and referred to as the Condominium and Cooperative Conversion Ordinance of the City of DeWitt, Iowa. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purposes of this section have the meanings set forth below. Words used in the present tense shall include the future, the single number shall include the plural, and the plural the singular. The word “shall” is mandatory, and the word “may” is permissive. The word “person” includes a partnership, corporation or other association or entity, as well as an individual.

- A. “City” means the City of DeWitt, Iowa.
- B. “Council” means the City Council of DeWitt.
- C. “Commission” means the City Planning and Zoning Commission of DeWitt.
- D. “Condominium” means a system of ownership of an apartment building whereby each apartment is under individual ownership, and the land and other common elements are under common ownership.
- E. “Cooperative” means a system of ownership of an apartment building whereby a corporation holds title to the building and leases individual apartments to its stockholders.
- F. “Developer” means any person who, directly or indirectly, sells or offers for sale an interest in a residential condominium or a residential cooperative.
- G. “First bona fide offer” means the first written offer made by the developer to sell the tenant’s rental apartment to the tenant after the issuance of the conversion permit.
- H. “Residential conversion project” means a plan by a developer to sell interests in a residential condominium or a residential cooperative through conversion of an existing residential apartment building, containing eight or more existing residential apartments, from a rental property to a residential condominium or a residential cooperative. The project shall be deemed to commence on the date the first tenant is notified by the developer of the developer’s intent to undertake such a project. Any person converting a cumulative total of eight or more apartment units into condominiums, allocated on a contiguous parcel or parcels of property, is subject to the terms and restrictions of this chapter.

I. "Tenant" means any person renting or leasing an apartment to be included in a residential conversion project.

165.90.020 Policy

It is declared to be the policy of the City to consider the conversion of existing multiple-family rental housing to residential condominiums and cooperatives as subject to control by the City pursuant to its power to protect and provide for the public health, safety and general welfare. This policy is based on the following findings and determinations:

- A. Residential condominium and cooperative conversions differ from other types of subdivisions and developments.
- B. Residential condominium and cooperative conversions have the potential to affect the supply of rental housing with the City and to displace households residing in the rental units to be converted.
- C. Regulation of residential and condominium and cooperative conversions is necessary to protect the interests of displaced tenants and buyers of such housing.

165.90.030 Purpose

It is the purpose of this chapter to do the following:

- A. To establish criteria for the conversion of existing multiple-family rental housing to residential condominiums and cooperatives.
- B. To reduce the impact of such conversions on tenants who may be required to relocate by providing for procedures for notification.
- C. To assure that purchasers of converted housing have been properly informed as to the physical condition of the structure which is offered for purchase and as to the costs and responsibilities associated with ownership of common elements.
- D. To attempt to provide a reasonable balance between owner-occupied and rental multiple-family housing in the City and variety of type, price and location of housing.
- E. To provide for evaluation of residential conversion projects.

165.90.040 Jurisdiction

The regulations of this chapter shall apply to all residential conversions projects, as defined herein, located within the corporate limits of the City and commenced after the effective date of the ordinance codified in this chapter.

165.90.050 Interpretation

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Where this chapter imposes a greater restriction than is imposed or required by other provisions of ordinance or law, the provisions of this section shall control.

165.90.060 Permit Required

No developer shall commence a residential conversion project, after the effective date of the ordinance codified in this chapter, or offer to sell any residential unit in a building to be converted, without first obtaining a conversion permit from the Council.

165.90.070 Application for Permit

Application for the conversion permit shall be made to the Building Official and shall include a filing fee of one hundred thirty-five dollars. The application shall include, but not be limited to the following information:

- A. Statement of the developer's intent to convert.
- B. Name and address of the developer, the owner(s) and any operator or agent actively managing the subject property as a rental property.
- C. Street address of the subject property.
- D. A list of the names and addresses of all tenants, certified as of the date of the application.
- E. Approximate square footage and number of bedrooms in each apartment included in the project.
- F. The number of existing off-street parking spaces for the project, and if required by 165.90.120, the plans for securing the additional off-street spaces needed.
- G. The most recent vacancy date for multiple-family dwelling units within the City.
- H. The number of vacant apartments and the number of occupied apartments during each of the preceding six months, for the conversion project.
- I. Certification that all tenants have been notified of the proposed conversion pursuant to 165.90.090.
- J. The property report pursuant to 165.90.110.

165.90.080 Issuance of Conversion Permit

- A. Upon receipt of each such application, the Building Official shall refer the application to other appropriate City departments for review and comment.
- B. The Building Official shall inspect the property, and report on its condition and upon any and all code violations. Fees for such inspection shall be charged in accordance with the current City inspection fee schedule.
- C. Within 45 days after receipt of the application, the Building Official shall submit such application to the Commission for its report and recommendations.
- D. After notice and hearing, the Commission shall transmit its report and recommendations to the Council. The Commission shall recommend either approval, conditional approval or denial of the application. In making its recommendations, the Commission shall take into consideration the following:
 - 1. Location and availability of similar, comparably priced or lower priced rental housing in the vicinity of the subject property and in the City as a whole, as indicated by the most recent vacancy data.
 - 2. Compliance of the application with the requirements of this chapter and other applicable ordinances or laws, specifically including the off-street parking requirements of 165.90.120.
 - 3. Consistency of the project with the public health, safety and welfare and with the City's general and specific plans.

E. After receipt of the report and recommendations of the Commission, the Council shall approve, conditionally approve or deny the application on the basis of the considerations set forth above.

F. If the Council approves the application, the Building Official shall issue the conversion permit, upon payment by the developer of a fee in the amount of \$25.00.

165.90.090 Notice to Tenants

At least 30 days prior to the filing of the application for the conversion permit, the developer shall deliver to each tenant a written notice of intent to convert containing the following:

- A. Notices of intent to sell the tenant's apartment as part of the residential conversion project.
- B. Sale price of each condominium unit to be offered for sale in the residential conversion project.
- C. A statement that the terms of any outstanding lease will be honored by the developer, unless the lease is broken with the consent of the tenant.
- D. A photocopy of the tenant's rights under 165.90.100 and under the Iowa Landlord-Tenant Act of the Code of Iowa.

165.90.100 Rights of Tenants

In addition to other rights conferred by any existing lease, by the Iowa Landlord-Tenant Act, or by other applicable ordinances and laws, each tenant lawfully in possession of a dwelling unit shall have the following rights:

- A. Each tenant shall have a nontransferable right of first refusal to purchase full interest in the apartment occupied by that tenant.
 - 1. Such right shall be irrevocable for a period of ten days after the first bona fide written offer.
 - 2. No other person shall have the right to purchase that apartment for the ten day period.
 - 3. If the tenant vacates the apartment before the expiration of the ten day period, the right of first refusal shall be deemed waived.
- B. At least 14 days prior written notice of time, place and date of any City Council or Commission hearing on the residential conversion project shall be posted for benefit of the tenants by the developer. One such notice shall be posted in plain view inside each entryway.

165.90.110 Property Report

A property report shall be submitted by the developer along with the application for permit required by this chapter. The developer shall thereafter furnish a copy of such report to each prospective purchaser of an interest of the project prior to sale of such interest. The report shall include, but not be limited to the following:

- A. A certified copy of the declaration of submission to the horizontal property regime, pursuant to the Code of Iowa.
- B. A report detailing the condition and expected useful life of the roof, foundation, mechanical, electrical, plumbing, and structural elements of all existing buildings and structural elements of all existing buildings and structures, and a building energy audit in accordance with the Code of Iowa, both report and audit to be prepared by a professional engineer or architect registered in the State of Iowa.

- C. An estimate of the cost of repair or replacement of any system listed in subsection B of this section with an expected useful life of less than five years.
- D. A list of repairs and improvements to be completed by the developer before sale, including the estimated cost thereof.
- E. An itemized statement in budget form of the estimated monthly cost of owning an interest in the project, including operational and management costs, taxes and reserves for possible future costs.
- F. A statement regarding any history of water or flooding problems relating to the buildings and structures.
- G. A statement that any prospective purchaser shall be permitted by the developer to inspect any or all common areas of the project at reasonable and convenient times.
- H. A statement that any applicable building, housing, or fire code violations will be corrected prior to the sale of any unit within any of the buildings.
- I. A copy of the City's inspection report and corrective orders for the buildings as required in 165.90.080.
- J. A statement that each prospective purchaser shall have an absolute right to rescind any contract or sale, or other acceptance of an offer or sale, within five days after such contract of sale or acceptance is closed.
- K. A copy of a statement showing the cost and usage of gas, electricity and water during the preceding twelve month period for each separately metered apartment and/or the per apartment cost of any commonly metered utilities.

165.90.120 Parking Required

Off-street parking spaces for each dwelling unit in the project shall be provided by the developer. The number of off-street spaces required shall be either one and one-quarter spaces per unit or the number of spaces per unit that was required by the City at the time that the building to be converted was constructed, whichever is greater. It is permissible to provide this parking on a lot separate from the buildings to be converted, but not further than three hundred feet from said lot containing the buildings, exclusive of street rights-of-way. Parking areas shall comply with the requirements of the applicable zoning district.

165.90.130 Registered Agent

Immediately after issuance of the permit required by this Chapter, the developer shall provide the Building Official with the name and address of a registered agent residing in the State. Such registered agent shall be authorized to transact all business with the City on behalf of the collective owners of the property included in the residential conversion project. The property owners shall retain a registered agent for as long as the project retains condominium or cooperative status and shall provide the Building Official with the name and address of any substituted registered agent.

165.90.140 Enforcement, Violation and Penalties

Appropriate actions and proceedings in the name of the City may be taken by law or in equity to prevent any violation of these regulations; to restrain, correct or abate such violations; to prevent illegal occupancy of a building, structure or premises; to recover damages; and these remedies shall be in addition to any penalties described in other sections of the City Code.