



STAFF REPORT

SAUSALITO CITY COUNCIL – JUNE 24, 2008

AGENDA TITLE:

City Council discussion on draft Condominium Conversion Ordinance

RECOMMENDED MOTION:

Direct staff on modifications to draft Ordinance

SUMMARY

The City currently has a moratorium in place on the conversion of motels and hotels to condominiums. The Council recently extended the terms of the moratorium in accordance with the provisions of the Government Code. With this extension the moratorium can remain in place until June 18, 2009.

BACKGROUND

The City has hired Lisa Newman to draft proposed amendments to the City's Zoning Code to regulate the conversion of motels and hotels to condominiums. Attached is the initial draft of the proposed modifications. On June 10th the City Council requested that the draft be agendized for discussion by the Council. The next step in the process will be for staff to incorporate any requested modifications and take the proposed amendments to the Planning Commission for consideration at a noticed public hearing. The item will then return to the City Council for consideration – this will also take place at a noticed public hearing.

FISCAL IMPACT

There is no anticipated financial impact to the City. However, staff time will be required to modify the regulations.

STAFF RECOMMENDATIONS

Staff recommends that the City Council review the attached and provide staff with direction on any proposed modifications.

ATTACHMENTS

Exhibit A – Draft Regulations

PREPARED BY:


Mary Anne Wagner, City Attorney

Item #: 6F
Meeting Date: 6-24-08
Page #: 1

SUBMITTED BY:

Adam W. Poltzer, City Manager

PROPER STATE

COMMUNITY DEVELOPMENT

[Faint, mostly illegible text, likely a meeting agenda or report content]

2008-06-24
City of...
...

EXHIBIT A

City of Sausalito: Administrative Draft Hotel-Condominium Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO AMENDING TITLE 3 (REVENUE AND FINANCE) OF THE SAUSALITO MUNICIPAL CODE TO INCLUDE HOTEL-CONDOMINIUMS IN THE DEFINITION OF HOTEL AND AMENDING TITLE 10 (ZONING ORDINANCE) TO INCLUDE HOTEL-CONDOMINIUMS AND PROVIDE REGULATIONS NEEDED TO CONTROL HOTEL-CONDOMINIUM USES.

SECTION ONE:

Section 3.12.020 Definitions of Chapter 3.12 Transient Occupancy Tax of Title 3 of the Sausalito Municipal Code is hereby amended to read in its entirety as follows:

3.12.020 Hotel.

“Hotel” shall mean any structure, or any portions of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, hotel-condominium, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof. A “hotel” facility excludes time-share estates and/or time-share properties, but includes hotel-condominiums and their respective rental management entities wherein the owners of hotel-condominiums obtain an estate in real property consisting of an undivided interest in common space together with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.

SECTION TWO:

Section 10.44.320, Hotel-Condominiums, of Title 10 of the Sausalito Municipal Code is hereby added to read in its entirety as follows:

10.44.320 HOTEL-CONDOMINIUMS

A. Purpose and Intent

The purpose of this Chapter is to establish regulations for the processing and operation of hotel-condominiums. It is the intent of this Chapter that hotel-

condominiums are operated and governed in the same manner as conventional hotels, and that such facilities are not to be used for residential purposes.

B. Use Permit Required

All hotel-condominium facilities shall require a use permit in accordance with SMC Chapter 10.60, "Conditional Use Permits". A use permit may only be issued in those zoning districts where hotels are permitted. No person shall convert any portion of any hotel to a hotel-condominium without first obtaining a use permit approval in accordance with the Chapter.

C. Conditions of Operation

In addition to the use permit findings required in SMC Chapter 10.60, each application submitted for the purpose of obtaining a use permit approval shall include detailed information and materials to satisfy the minimum conditions of operation as set forth below. Each hotel-condominium shall comply with the following minimum conditions of operations:

1. **Covenants, Conditions and Restrictions (CC&Rs).** CC&Rs and all other agreements, including but not limited to, Homeowners' Associations (HOAs) agreements, rental management agreements, and hotel management agreements, relating to a hotel-condominium project shall be submitted for review and approval by the Community Development Director and City Attorney to ensure that (i) the long-term maintenance and operation of the hotel-condominium is in accordance with this Chapter and the terms of any use permits issued for hotel-condominium; (ii) all units, except for the Resident Manager unit prescribed in Section 10.44.320(6), remain available of occupancy transients; and (iii) notice is provided to future purchasers of the City's right to enforce the CC&Rs and all other agreements. Any future amendments to such documents shall be subject to review and approval by the Community Development Director and City Attorney.
2. **Owners Association.** All hotel-condominium projects shall require the establishment of an Owner's Association to oversee the maintenance and operation of the hotel-condominium and its services. The structure and responsibilities of the Owner's Association shall be approved by the Community Development Director and City Attorney.
3. **Rental Management Entity.** All hotel-condominium projects shall require the Owner's Association to hire a Rental Management Entity to manage and operate the hotel-condominium and its services. The Owner's Association shall submit a letter identifying the Rental Management Entity and its professional qualifications to the City Attorney. The Rental Management Entity shall (i) provide transient rental services to all owners of the hotel-condominium units, (ii) be the sole entity to manage and operate the rental of individual hotel-condominium units, and (iii) be

responsible for collection of the transient occupancy tax (TOT). All unit owners shall be required to participate in the rental program provided by the Rental Management Entity.

4. **Enforcement and Inspection.** The Owner's Association and Rental Management Entity shall have the right, power and obligation to enforce the terms set forth by the CC&Rs and all other agreements, together with the terms of any use permits issued for the hotel-condominium. This includes, without limitation, the right to enter any portion of the hotel-condominium, including individual units, to cure any failure or defect in order to satisfy such terms. In addition, all hotel-condominium facilities, including individual units, shall be subject to inspection upon reasonable notice by the City's Community Development Department to ensure compliance with the terms of any use permits issued for the hotel-condominium, the terms of this Chapter, and all other applicable laws and regulations.
5. **Occupancy and Rates.** Units shall be available for transient occupancy by the general public at all times, and shall not be used for purposes that are not subject to the transient occupancy tax (TOT). Occupancy by unit owners or their designees shall be limited to no more than 30 days per calendar year per unit. Any such occupancy shall be subject to the TOT in accordance with Chapter 3.12. Calculation of the TOT for unit owners or their designees shall be based on the same rental rates as utilized for the general public.
6. **Resident Manger.** Notwithstanding the terms of this Chapter, a hotel-condominium facility may contain one unit, which may be used on a full-time basis by a Resident Manger(s), and, if applicable, such unit shall be subject to the governance of the Owner's Association and Rental Management Entity.
7. **Reservation System.** All hotel-condominium facilities shall provide a central reservation system for the rental of units as an integral part of hotel-condominium services.
8. **Furnishings and Utilities.** All hotel-condominium facilities shall contain a central lobby with a front desk and/or reservation desk. All units within the hotel-condominium facility shall contain and maintain standardized furniture, furnishings, and décor, and shall be served by centrally metered utility services, including, but not limited to, telephone and cable services. No units shall contain a kitchen, washer/dryer equipment or connections, or any lockable storage closet or cabinet unless access to such closet or cabinet is uniformly provided to all hotel-condominium occupants.

9. **Signage.** Any signage proposed for the hotel-condominium shall conform to the requirements of Chapter 10.42.
10. **Financial Records.** The financial records of the hotel-condominium pertaining to the rental of each unit, including any occupancy by owners or their designees, shall be open for inspection by authorized representatives of the City, upon reasonable notice, in order to ensure compliance with the SMC.
11. **Additional Terms and Conditions.** In addition to the regulations set forth in this Chapter, the City may impose additional terms and conditions on any use permit issued to a hotel-condominium as is deemed necessary to further the goals of this Chapter and the SMC.
12. **Compliance with Law.** It shall be the responsibility of the applicant for a hotel-condominium project, as well as the unit owners, the Owner's Association, and the Rental Management Entity, to comply with the requirements of this Chapter, as well as other applicable federal, state and local laws and regulations.

SECTION THREE:

If any section or portion of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.