



CITY OF MOOSE JAW

Office Consolidation

Condominium Conversion Bylaw

Bylaw No. 5420

Date of Passage September 4, 2012
(effective date September 4, 2012)

Including amendments to August 11, 2004

Disclaimer:

This information has been provided solely for research convenience. Official bylaws are available at the Office of the City Clerk and must be consulted for purposes of interpretation and application of the law.

This Bylaw has been consolidated under the authority of the City Clerk. It represents proof, in absence of evidence to the contrary of:

- (a) the original bylaw and of all bylaws amending it; and**
- (b) the fact of passage of the original and all amending bylaws.**

AMENDMENTS

DATE PASSED

FORCE/EFFECT

Bylaw No. 5464

August 11, 2004

August 11, 2004

BYLAW NO. 5420
CONDOMINIUM CONVERSION BYLAW

THE COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS FOLLOWS:

Purpose

1(1) The purpose of this Bylaw is to:

- (a) ensure the orderly conversion of Rental Dwelling Units into Condominium Units;
- (b) provide criteria under clause 10(5)(e) of *The Condominium Property Act, 1993*, to satisfy the Approving Officer or Council that where a Property is subject of a Condominium Conversion:
 - (i) the conversion will not significantly reduce the availability of rental accommodation in Moose Jaw;
 - (ii) the conversion will not create significant hardship for any or all of the Tenants of the Property; and
 - (iii) the Property and the land on which it is located have the physical characteristics considered necessary by the City to make the premises suitable for conversion; and
- (c) delegate to the Approving Officer certain authority under clause 10(1)(b) of *The Condominium Property Act, 1993*.

Definitions

2 In this Bylaw:

- (a) “**Application Date**” means the date on which the City receives a completed Condominium Conversion Application from the owner of a Property;
- (b) “**Application Fee**” means the applicable fees set out in Schedule A attached to this Bylaw;
- (c) “**Approving Officer**” means the City’s Manager of Planning;
- (d) “**City**” means the City of Moose Jaw;
- (e) “**CMHC Vacancy Rate**” means the average of the two most recently published spring vacancy rates or the two most recently published fall vacancy rates closest in time to the Application Date, for Moose Jaw, based on the published Canada Mortgage and Housing Corporation’s

market rental survey;”

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- (f) **“Condominium”** has the same meaning as prescribed in the CPAct;
- (g) **“Condominium Conversion”** means the process of converting a Property to a Condominium, and pursuant to section 8.1 of the CPAct Regulations, includes:
 - (i) the demolition of all or part of a Property that would result in any Tenant receiving a notice to vacate pursuant to *The Residential Tenancies Act, 2006*; and
 - (ii) the renovation of all or part of a Property that would result in any Tenant receiving a notice to vacate pursuant to *The Residential Tenancies Act, 2006*;
- (h) **“Condominium Conversion Application”** means the application for the City’s approval of a Condominium Conversion;
- (i) **“Condominium Plan”** has the same meaning as prescribed in the CPAct;
- (j) **“Condominium Unit”** means the same meaning as “Unit” in the CPAct;
- (k) **“Council”** means the Council of the City;
- (l) **“CPAct”** means *The Condominium Property Act, 1993*;
- (m) **“Designated Heritage Property”** means a Property that has been designated as a:
 - (i) Provincial Heritage Property pursuant to *The Heritage Property Act*; or
 - (ii) Municipal Heritage Property pursuant to a City bylaw;
- (n) **“Drawings”** means the drawings of the Property prepared, signed and under seal by an independent, professional engineer licensed to practice in Saskatchewan which drawings include all the information required by section 8;
- (o) **“Heritage Advisory Committee”** means the committee created by the Heritage Advisory Committee Bylaw, Bylaw No. 5369;
- (p) **“Inspection Report”** means an on-site report prepared by an

independent professional engineer or architect licensed to practice in Saskatchewan, which report includes all the information required by section 7;

(q) **“Life Safety Requirements”** means the minimum requirements in applicable acts, regulations, codes, bylaws, as may be amended from time to time, that contain requirements, relating to building conditions, that ensure that a building is not deficient in features that are essential to human health during the normal operation of the building and in the case of an emergency;

(r) **“Property”** means an existing residential building designed for or occupied as two or more Rental Dwelling Units, but which building does not include short term temporary rental accommodations such as a motel or hotel;”

(r.1) **“Secondary Suite”** has the same meaning as in the City of Moose Jaw Zoning Bylaw No. 5346.”

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(s) **“Rental Dwelling Unit”** means one or more rooms that:

(i) are rented to a Tenant;

(ii) are used as a residence; and

(iii) have sleeping, cooking and toilet facilities;

(t) **“Right of First Refusal Guarantee”** means a document creating a legal obligation of the owner of the Property to provide a Tenant the right to purchase the Condominium Unit that corresponds to the Tenant’s Rental Dwelling Unit:

(i) at a price equal to or less than the Condominium Unit will be offered for sale to the public; and

(ii) on terms that are no less favourable than that will be offered to the public purchasing the Condominium Unit;

Which right will be exercisable within 60 days following the date the Condominium Conversation Application was approved;

(v) **“Tenant”** means a person occupying a Rental Dwelling Unit within the Property as at the Application Date;

- (w) **“Tenant Transition Assistance Measures”** means the actions that could be taken to relieve any significant hardship to Tenants of a Property created by a Condominium Conversion of that Property; and
- (x) **“Vacant Property”** means a Property that may have been vacated due to a fire or public health order for any other reason:
 - (i) in which 50% or more of the Rental Dwelling Units are vacant as of the Application Date; and
 - (ii) the average vacancy rate for the past 12 months prior to the Application Date has been 50% or more.

Authority

- 3(1) The authority for this Bylaw is section 8 of *The Cities Act* and clause 10(1)(b) and subsection 10(5) of the CPAct.
- (2) Pursuant to clause 10(1)(b) of the CPAct, the Approving Officer is authorized to approve on behalf of the City, a proposed division of buildings or land as shown on a Condominium Plan respecting the Condominium Conversion of Property with 49 or fewer Rental Dwelling Units.
- (3) Approval for a proposed division of buildings or land as shown on a Condominium Plan respecting the Condominium Conversion of a Property with 50 or more Rental Dwelling Units, shall be determined solely by Council.

Conversion of Properties

- 4 Every owner of a Property wanting to convert that Property to a Condominium shall submit a Condominium Conversion Application to the City which application shall include the following:
 - (a) completed Condominium Conversion Application form;
 - (b) the applicable Application Fee;
 - (c) a description of the Property;
 - (d) a copy of the proposed Condominium Plan that meets the requirements for approval of a Condominium Plan under the CPAct;
 - (e) two full size copies and one reduced (8½” by 11”) copy of the Drawings;
 - (f) an Inspection Report;
 - (g) a written plan of proposed work to the Property to remedy any deficiencies related to Life Safety Requirements identified in the Inspection Report;

- (h) a copy of the completed building permit application for construction or repairs to the Property to remedy any deficiencies identified in the Inspection Report;
- (l) an affidavit of service demonstrating that every Tenant has been provided with the following, by registered mail:
 - (l) notice that the owner of the Property has applied to the City for approval for the conversion of the Property into a Condominium;
 - (ii) information identifying the City's website address;
 - (iii) contact information for the Office of Rental Tenancies;
 - (iv) a copy of this Bylaw;
 - (v) a written document that:
 - (A) explains the Tenancy Guarantee;
 - (B) creates a legal obligation on the owner of the Property to provide the Tenant with the Tenancy Guarantee; and
 - (C) affirms the Tenant's right to rely on the Tenancy Guarantee;
 - (vi) a written document that:
 - (A) explains the Tenant's right of first refusal to purchase the Condominium Unit in which the Tenant is residing as of the Application Date;
 - (B) creates a legal right for the Tenant, exercisable at any time within thirty (30) days after receipt, of the option to purchase the Tenant's Condominium Unit at a price equal to or not more than the price at which the Condominium Unit will be offered to the public and on terms that are not less favourable;
 - (C) estimates of all additional charges for management, maintenance and condominium fees or service charges that the Tenant would be required to pay as an owner of the Condominium Unit;

(D) contains a copy of the Inspection Report; and

(E) discloses financial reserves for replacements and repairs for the Property;

(vii) such other information as the Approving Officer may require;

(j) copies of the other documents required by the CPAct for approval of a Condominium Plan;

(k) such other information or documentation the Property owner wants to provide to satisfy the City that it should approve Condominium Conversion Application; and

(l) such other information as the City may require to satisfy itself that the requirements for approval of the Condominium Plan in the CPAct have been met.

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(2) No Condominium Conversion Application will be considered until all the information required in this section has been provided to the City.

(3) A Secondary Suite or a Property which includes a Secondary Suite is not eligible for conversion to a Condominium except in conformance with the Zoning Bylaw and Building Bylaw requirements for two unit dwellings.

(4) No condominium conversion application will be considered unless the CMHC vacancy rate is 3% or greater, unless the subject property is a Vacant or Heritage property under the definition of this bylaw.

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Conversion of Vacant Properties

5 If the Property is a Vacant Property then, in addition to the information required under subsection (1), the owner shall provide:

(a) an affidavit stating that the Property meets the definition of a Vacant Property; and

(b) a monthly summary of the Property's occupancy for the 12 months prior to the Application Date.

Conversion of Designated Heritage Properties

6(1) If the Property is a Designated Heritage Property and the Approving Officer determines that a Condominium Conversion may affect the heritage aspects of the Property then, prior to any approval or denial of the application, the

Approving Officer shall provide a copy of the application and the supporting materials submitted to the City to the Heritage Advisory Committee for its review.

- (2) Following the review of the application and materials under subsection (1), the Heritage Advisory Committee shall in writing advise the Approving Officer as to whether, in the Committee's opinion, the Condominium Conversion applied for will adversely impact the heritage features of the Property.
- (3) Applications for condominium conversion of Designated Heritage Properties are exempt from minimum CMHC vacancy rate criteria (Section 11(1)(b))
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Inspection Report

7 At minimum, the Inspection Report shall include:

- (a) an independent, structural analysis of the Property's condition;
- (b) a description of potential items of repair or replacement for the Property;
- (c) an analysis of Life Safety Requirements aspects of the Property, including any deficiencies to the Life Safety Requirements aspects of the Property;
- (d) area, height and classification of the Property under the current *National Building Code of Canada*;
- (e) an analysis of the Property for compliance with or any variances from all applicable aspects of the statutes, regulations, codes or bylaws relating to building requirements; and
- (f) recommendations for corrective measures for the Property to become compliant with statutes, regulations, codes or bylaws relating to building requirements.

Drawings

8 At minimum, the Drawings shall include:

- (a) a site plan for the Property;
- (b) the locations of all work to be done at the Property;
- (c) the details of the work to be done at the Property;
- (d) the corridor pressurization system complete with fire dampers and any new shafts for duct work;

- (e) the shaft construction details;
- (f) the sprinkler system drawings including all components of the fire alarm system; and
- (g) the exit signs and emergency lighting.

Sale of Condominium Units

9 Every owner of a Property subject to a Condominium Conversion Application shall not offer any Condominium Units respecting that Property for sale to anyone other than the Tenants of that Property until the Condominium Conversion Application is approved.

Condominium Conversion Approval

10(1) The Approving Officer's and/or Council's decision to approve or deny a Condominium Conversion Application shall be based on whether it is satisfied that the conversion of the Property:

- (a) will not significantly reduce the availability of rental accommodation in the City;
- (b) will not create significant hardship for any or all of the Tenants of the Property; and
- (c) the Property and the land upon which it is located have the physical characteristics considered necessary by the City to make the Property suitable for Condominium Conversion.
- (d) meets all approval criteria listed in Section 11.

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- (2) Upon an approval of Condominium Conversion Application, the City Clerk is authorized to sign a certificate described in clause 10(1)(b) of the CPAct, which certificate is required to be submitted for approval of a Condominium Plan under the CPAct.
- (3) Within 10 days of a decision under this Bylaw, the City shall provide written notice of the decision to the owner of the Property.
- (4) Prior to Council's consideration of a Condominium Conversion Application the Approving Officer shall evaluate the application and any related material and prepare a report for Council.

- (5) Where a Condominium conversion involves a Designated Heritage Property, the report in subsection (4) will include the advice provided by the Heritage Advisory Committee whether the Condominium Conversion will adversely impact the heritage features of the Property.
- (6) In the event the Heritage Advisory Committee determines in its recommendation that the owner's Condominium Conversion will adversely impact the heritage features of the Designated Heritage Property that it is the subject of a Condominium Conversion then the Approving Officer or Council may deny the Condominium Conversion.
(Bylaw No. 5464)
- (7) The Municipal Planning Commission shall review the report of the Approving Officer and shall make a recommendation to Council."
(Bylaw No. 5464)

Approval Criteria

11(1) Each of the following criteria must be met for the Approving Officer and Council to satisfy themselves of the issues in subsection 10(1):

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- (a) whether the owner paid the applicable fee and submitted all the information required for a Condominium Conversion Application under sections 4 and/or 5;
- (b) the CMHC Vacancy Rate is 3% or greater;
(Bylaw No. 5464)
- (c) there are no outstanding property taxes owing on the Property;
(Bylaw No. 5464)
- (d) the Property is not subject to any agreements that:
 - (i) restrict the owner from converting the Property into condominiums;
 - (ii) require the owner to maintain the Property as rental property;
 - (iii) restrict the owner from redividing the Property into one or more Condominium Units;
- (e) the City's acceptance of the owner's written plan of proposed work submitted under clause 4(g), to remedy any deficiencies in the Property related to the Life Safety Requirements identified in the Inspection Report;
- (f) the City's acceptance of the owner's completed building permit application submitted under clause 4(h), for construction or repairs to the Property to remedy the deficiencies identified in the Inspection Report; and
- (g) the Property is suitable for conversion into a Condominium such that it

meets the current requirements of all applicable statutes, regulations, codes and bylaws as of the Application Date.

- (2) Notwithstanding subsection (1) the Vacancy Rate in clause (1)(b) is not a criterion for determining the approval of a Condominium Conversion Application respecting a Vacant Property.

Appeal Procedure

- 12(1) A decision of the Approving Officer to approve or deny a Condominium Conversion Application may be appealed by the owner to Council within 30 days following the date of receipt of the notice of the decision in subsection 10(3).
- (2) Council shall render a decision on an appeal within 60 days following the receipt of the appeal.
- (3) On appeal Council shall consider the issues in subsection 10(1) and the criteria in section 11 and confirm or set aside the decision appealed from.

Application of Other Legislation

- 13(1) Any rights conferred by this Bylaw are in addition to, and not in derogation of, any other right of action or any other remedy available pursuant to any other Act or law.
- (2) Where a Condominium Conversion has been approved, a Tenant may enforce a Tenant Guarantee or Right of First Refusal Guarantee through any remedy available pursuant to any act or law, including through *The Residential Tenancies Act, 1993*.

Assignment

- 14 The owner of a Property subject of a Condominium Conversion Application shall ensure that any and all agreements the owner enters into with any Tenant for the purpose of providing Tenant Transition Assistance Measure, shall be binding on the Property owner's heirs, successors, assigns, agents, and property managers.

Public Notice

- 15 Prior to the consideration of a Condominium Conversion Application under this Bylaw, the City shall provide public notice that a Condominium Conversion Application has been received and will be considered for approval on a date certain, which notice shall be given as follows:
 - (a) notice of the matter shall be published in two consecutive Saturday editions of the Moose Jaw Times Herald;
 - (b) notice of the matter shall be posted on the City's web site at least seven days prior to the consideration of the matter; and

- (c) notice of the matter shall be posted on the Property subject of the Condominium Conversion Application at least 14 days prior to the consideration of the matter.

Registration

- 16(1) The Condominium Plan and titles for the Condominium Units that were the subject of a Condominium Conversion Application shall be registered at Information Services Corporation within two years of the date the Condominium Conversion Application was approved under this Bylaw.
- (2) Approval of a Condominium Conversion Application under this Bylaw shall be void if the Condominium Plan and Unit titles are not registered within the time prescribed in subsection (1).
- (3) The Approving Officer may approve one extension of the registration deadline in subsection (1) for the Condominium Plan and Condominium Unit titles.
- (4) The extension period in subsection (3) shall not exceed six months.

17 This Bylaw comes into force on the day of passage.

READ A FIRST TIME ON AUGUST 20, 2012

READ A SECOND TIME ON AUGUST 20, 2012

READ A THIRD TIME AND PASSED ON SEPTEMBER 4, 2012

Schedule A

Fees

Fee for review of Condominium Conversion:
Application (non-refundable)

\$500 plus \$50 per unit