

ARTICLE II. - TRUTH IN HOUSING

DIVISION 1. - GENERALLY

Sec. 20-19. - Purpose.

For the benefit of the community, the city has deemed it necessary and appropriate to maintain, preserve and improve residential housing by providing an orderly and effective way to ensure compliance with housing codes and provide an inspection system applicable to increased concerns for the health, safety and protection of its citizens.

(Code 1986, § 406.01)

Sec. 20-20. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Buyer means a person who acquires real estate by means other than descent or inheritance and usually for money or the equivalent.

Certified evaluator means an individual who holds a current certified evaluator certificate as issued by the city.

Condominium means a dwelling unit in a building containing two or more dwelling units that are separately owned and may be combined with an undivided interest in the common areas and facilities of the property. Each individual owner may sell or encumber his own unit.

Disclosure report means a truth-in-lending and zoning disclosure report meeting the requirements of this article.

Dwelling unit means a single, private, independent living space or quarters consisting of at least facilities for bathing, food preparation and consumption, sleeping, and other related purposes and includes any accessory structures in connection therewith.

Owner means a person who owns, occupies or operates by deed or other instrument of conveyance any premises. The term "owner" includes a person employed for the purpose of selling or otherwise conveying or managing such premises, including a guardian, administrator, executor, trustee or other agency acting for the owner; the term "owner" includes a person or committee supervising, policing or maintaining any cooperative or other common building area, dwelling units, or any condominium unit owners' association.

Purchase agreement means an agreement deed, contract for deed or any other instrument of transfer or conveyance of residential premises. The term "purchase agreement" does not include the transfer of a document made solely for perfecting title.

Time of sale means the time when a written purchase agreement is executed by the buyer, or, in the absence of a purchase agreement, prior to the execution of any document providing for the conveyance of any condominium or townhouse or any building containing one, two, three, or four dwelling units.

Townhouse means a dwelling unit constructed in a group of dwelling units attached to each other and where each dwelling unit extends from the foundation to the roof and is separated from other dwelling units by property lines.

(Code 1986, § 406.03)

Sec. 20-21. - Records distribution and retention.

Reports, certificates, and filings associated with this article shall be kept in the inspections office. A copy may be furnished to the owner or other authorized person upon request.

(Code 1986, § 406.07)

Sec. 20-22. - Violations and penalties.

- (a) If an owner or an agent for the owner sells by conveyance or contract for conveyance any dwelling regulated by this article without complying with all requirements of this article, after notice to the offending owner, the city may contract with a certified evaluator to have the evaluation done and the costs for the evaluation billed to the offending owner. The term "offending owner" means the owner selling the property without benefit of a disclosure report. Any repair or replace items identified by the report shall become a civil matter between the buyer and the seller.
- (b) A person who violates this article or who fails to comply with any order issued by the housing inspector pursuant to this article may be charged with a misdemeanor or be subject to the issuance of an administrative citation. Each day the owner fails to comply with any such order shall constitute a separate offense.
- (c) The inspector may post the premises by appropriate signs or notices prohibiting occupancy and may, by appropriate action, cause the premises to be and remain vacant until violations are remedied and a certificate of approval is issued.

(Code 1986, §§ 406.10, 406.11)

Sec. 20-23. - Warranty disclaimer on behalf of the city.

By enacting and undertaking to enforce this article, neither the city nor its council, agents or employees warrant or guarantee the safety, fitness or suitability of any dwelling in the city, and any representation to the contrary by any person is a misdemeanor. Purchasers and occupants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare prior to purchase or occupancy of a dwelling.

(Code 1986, § 406.13)

Secs. 20-24—20-49. - Reserved.

DIVISION 2. - DISCLOSURE REPORT

Sec. 20-50. - Required; issuance date; distribution.

- (a) No owner, agent of the owner, or person licensed by the state to sell real estate shall offer for sale, exhibit, show, or sell by conveyance or contract for conveyance any condominium or townhouse or any building containing one, two, three or four dwelling units within the city without providing to any potential buyer, prior to the time of sale, an original or exact copy of a disclosure report for the dwelling unit offered for sale.
- (b) The disclosure report shall be made available for inspection at the premises at all times that the premises is being offered for sale. The report shall have been issued within one year preceding the time of sale.

(Code 1986, § 406.05(1))

Sec. 20-51. - Exceptions.

- (a) This article shall not apply to the following:
 - (1) The sale or conveyance of any condominium or townhouse or any building containing one, two, three, or four dwelling units to a federal, state, or local governmental unit.
 - (2) When title is transferred to the first owner following construction.
 - (3) For one year from the date of the final certificate of inspection or certificate of occupancy of a newly constructed condominium, townhouse or any building or structure containing one, two, three, or four dwelling units.
 - (4) From an owner to a relative.
- (b) For the purposes of this section, the term "relative" means a husband, wife, father, mother, son, daughter, brother, sister, grandson, granddaughter, grandfather, or grandmother.

(Code 1986, § 406.05(4))

Sec. 20-52. - Inspection; preparation of report.

- (a) A certified evaluator shall conduct an inspection and prepare a disclosure report for each dwelling unit offered for sale. The report shall be on forms provided by the city. The forms shall provide information concerning Code requirements applicable to existing condominiums or townhouses or any building containing one, two, three or four dwelling units and the disclosures referenced in this section.
- (b) In conducting the inspection and preparing the report, the certified evaluator shall utilize care and diligence, abide by the code of ethics, and follow the city truth-in-housing evaluators' guidelines for certified evaluators established and issued by the city. It shall be assumed that any concealed facilities and installations that are not viewed are adequate, based on the functional operations of the facilities and installations and the condition of the equipment that is viewed.
- (c) For each area of the dwelling evaluated, the certified evaluator shall categorize the condition of the area as one of the following:
 - (1) Meets city requirements.
 - (2) Below city requirements.
 - (3) Repair or replace.
 - (4) Not applicable.

Items categorized as repair or replace shall be deemed to pose an immediate danger to the health and safety of the occupant.

- (d) The form shall include the following signed disclosures by the evaluator:
 - (1) Whether there are housing orders pending on the property issued by the city inspections division.
 - (2) Whether the current use is conforming or nonconforming in accordance with the city zoning regulations and, if the use is nonconforming, the written verification of the city zoning administrator is also required.
 - (3) The dwelling's homestead classification in regard to real estate taxes payable.
- (e) The form shall include the following signed disclosures by the owner acknowledging:
 - (1) Any damage to the dwelling or its contents by flooding.
 - (2) Any sewer backup or any evidence of chronic water seepage.
 - (3) Any abandoned, unused, or uncapped wells.

- (4) Any discharge of stormwater, groundwater, roof runoff, yard drainage, foundation drains, or sump pumps into the sanitary sewer.
- (f) No disclosure report shall be deemed valid without the disclosures required in this section, and no owner or agent of the owner shall sell a dwelling unit without providing to the buyer a statement of the nature, extent and cause of any water seepage or flooding of any portion of the property within the knowledge of the owner.
- (g) The disclosure report shall be legible, be printed in ink or by other permanent means, and signed by the evaluator. Any report revised by a certified evaluator shall be identified as such and be submitted to the owner, the owner's agent, the real estate agent hired by the owner, and the city within one business day of revision.
- (h) The inspection and report are not intended to be a warranty and no warranty is expressed or implied. Nothing in the report shall indicate, or shall be deemed to indicate, that the dwelling unit meets all minimum housing standards.

(Code 1986, § 406.05(2))

Sec. 20-53. - Certain deficiencies constituting repair or replace of items.

The following items shall be identified by the certified evaluator as repair or replace and be marked as such in the disclosure report.

- (1) Leaking gas lines or gas appliance connections that are not properly capped.
- (2) Electrical systems where any of the following occur:
 - a. Over-fusing of circuits.
 - b. Bare, exposed, or uninsulated wiring.
 - c. Electrical wiring or fixtures that pose a shock hazard.
 - d. Use of materials for permanent wiring that were not intended or designed for such use.
- (3) Plumbing systems where any of the following occur:
 - a. Lack of or inoperable kitchen sink, water closet, lavatory or bathtub or shower including lack of or insufficient hot or cold running water.
 - b. Fixtures, waste or vent piping, or traps that permit the introduction of sewage or sewer gas into the dwelling.
 - c. Water supply lines serving lawn irrigation systems, boilers, or other fixtures or equipment where backflow prevention is required, but that are not provided with a backflow preventer.
 - d. Water heaters, hot water boilers, furnaces, or other fuel burning equipment where any of the following occur:
 - 1. Lack of or inoperable pressure/temperature relief valve on water heaters or boilers.
 - 2. Relief drain piping that is undersized, does not extend to within 18 inches of the floor, or is plugged or capped.
- (4) Fuel burning appliances that are located in a tight, confined space and are not provided with proper combustion air by an opening in the enclosure. The open area of the combustion air intake shall not be less than the area of the common flue of the appliances within the enclosure.
- (5) Gas fired appliances, water heaters, and furnaces not provided with a vent when required by the appliance listing or not provided with a draft hood (diverter), that are exhibiting back spillage of products of combustion at the draft hood, or that show signs of leakage or cracks in the combustion chamber.

- (6) A chimney or vent system for any fuel burning appliance that lacks sufficient clearance to combustible materials; has rust holes, open joints, or an improper pitch; lacks proper supports; is not properly sealed to the chimney; or because of deterioration poses a fire or imminent health risk.
- (7) Any fuel burning freestanding space heaters located in bedrooms or bathrooms, which take their combustion air from the room in which they are located.
- (8) Any heating plant, water heater or other fuel burning equipment that has missing or visually defective required safety controls (e.g. cutoff switch, PRV, etc.).
- (9) Lack of, improperly installed, or inoperable smoke detectors as required by state law. Battery powered detectors may be used.
- (10) Any room or structure where any of the following exist:
 - a. Unsanitary conditions or an accumulation of clutter to the extent that constitutes a fire or health hazard to the occupants or to the public.
 - b. Vermin or rodent infestations.
 - c. Broken or jagged panes of glass.
- (11) Foundations, walls, ceilings, roofs, chimneys, or any other structural member exhibiting structural damage or deterioration such that failure or collapse of the member is imminent.
- (12) Dwelling units, rooms within dwelling units, or portions of buildings serving dwelling units that lack exiting that was required at the time of construction or remodeling of the dwelling unit, room, or building or where exiting is not properly maintained.
- (13) Any other condition where, in the opinion of the certified evaluator, a distinct imminent life threatening hazard to the occupants of the structure exists.

(Code 1986, § 406.05(13))

Sec. 20-54. - Owner's duty to correct repair or replace items.

- (a) The owner shall promptly correct all items marked as repair or replace by the certified evaluator. The owner shall obtain all necessary permits from the city and the premises shall be subject to inspection by the building official prior to sale and occupancy of the dwelling.
- (b) If there are no items marked as repair or replace or when all items marked repair or replace have been corrected and inspected by the building official, the city will issue a certificate that will serve as proof of compliance with this section.
- (c) The buyer, designated in a purchase agreement, may elect to correct the items marked as repair or replace in the disclosure report. Such corrections may be undertaken by a buyer only upon the written consent of the building official and subject to such terms and conditions as may be required by the building official.
- (d) Such terms shall include, but are not limited to, a signed agreement on behalf of the city from the buyer accepting the responsibility of correction of the repair or replace items, reasonable completion dates acceptable to the city and financial evidence of ability to perform the corrections, but in either event, the property shall remain unoccupied until such violations are corrected and approved by the building official.

(Code 1986, § 406.05(13))

Sec. 20-55. - New report required for resale.

A new disclosure report shall be required for each change of ownership or time of sale.

(Code 1986, § 406.05(3))

Sec. 20-56. - Filing of disclosure reports; fees.

Each certified evaluator shall submit to the city an exact duplicate or copy of each disclosure report within ten days after the evaluation inspection has been made. A filing fee as established by resolution from time to time by the city council, shall accompany each evaluation report submitted. Disclosure reports not filed with the city within ten days of the evaluation inspection become null and void.

(Code 1986, § 406.05(12))

Sec. 20-57. - Appeals.

An owner or buyer aggrieved by a disclosure report may appeal from the action of the certified evaluator to the building official who shall make a ruling on the appeal.

(Code 1986, § 406.09)

Secs. 20-58—20-87. - Reserved.

DIVISION 3. - CERTIFIED EVALUATOR CERTIFICATE

Sec. 20-88. - Required for inspection and issuance of disclosure reports.

No person shall fill out a disclosure report without first obtaining and maintaining a certified evaluator certificate from the city as provided for in this article.

(Code 1986, § 406.05(5))

Sec. 20-89. - City employees not eligible for certification.

No employee of the city shall be certified under this article.

(Code 1986, § 406.05(10))

Sec. 20-90. - Procedure and requirements for issuance; fees.

- (a) *Certificate of competency required.* No certified evaluator certificate shall be issued or renewed by the city without application on the approved form and proof that the applicant has a current unexpired certificate of competency as issued by the cities of Bloomington, Minneapolis or St. Paul, which certificate must be maintained at all times for the evaluator to be certified in the city.
- (b) *Liability insurance required.* The applicant shall also show proof of general liability insurance insuring the applicant with a minimum limit of liability of \$250,000.00 general aggregate and per occurrence and errors and omissions insurance with a minimum limit of liability of \$250,000.00, which may include a deductible not exceeding \$5,000.00. The city shall be included as a named insured on the insurance required herein at the expense of the certified evaluator. The certified evaluator shall maintain insurance continuously in force thereafter, and no certified evaluator certificate shall be deemed to be in effect when such insurance is not in effect.

(c) *Fees.* The applicant shall submit with his application the certificate fee as set forth by city council resolution.

(Code 1986, § 406.05(5))

Sec. 20-91. - Evaluator contact information to be kept current.

Any person certified under this article shall cause to keep registered with the city his current residency, or mailing address and telephone number.

(Code 1986, § 406.05(11))

Sec. 20-92. - Certificates to be used only by holder.

No certified evaluator shall allow his certified evaluator certificate to be used by another person.

(Code 1986, § 406.05(5))

Sec. 20-93. - Annual renewal required; fees.

Certified evaluator certificates expire on December 31 of each year and must be renewed on an annual basis. A renewal application provided by the city shall be submitted each year prior to the renewal date and shall include a renewal fee as established by resolution of the city council.

(Code 1986, § 406.05(6))

Sec. 20-94. - Suspension, revocation, denial of issuance, non-renewal and cancellation.

(a) *Grounds.* Any certified evaluator's certificate issued or proposed to be issued under this article may be denied, revoked, suspended, cancelled or not renewed by an administrative decision by the building official for just cause which includes, but is not limited to, a finding that the applicant or evaluator:

- (1) Is convicted of any crime related to the licensed occupation, pursuant to M.S.A. § 364.03, subd. 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, pursuant to M.S.A. § 364.03, subd. 3.
- (2) In the application process for issuance or renewal of a license knowingly falsified, concealed, misrepresented or misstated any material fact or matter bearing upon his eligibility or competency.
- (3) Obtained, attempted to obtain, or assisted another in obtaining or attempting to obtain an evaluator's license through fraudulent or other improper means.
- (4) Failed to provide satisfactory proof of insurance insuring the applicant/evaluator and the city or allows such insurance to lapse.
- (5) Failed to pay the required fees.
- (6) Failed to promptly file any disclosure report.
- (7) Has been the subject of substantiated complaints from residents using the applicant's evaluations services.
- (8) Has demonstrated incompetence or inefficiency in conducting evaluations.

- (9) Violated any of the provisions of this article or any conditions provided for in the license issued pursuant to this article.
- (10) Failed to abide by the code of ethics.
- (b) *Notice to applicant or evaluator.* If the building official determines that a certified evaluator's certificate should be denied, suspended, revoked, canceled or not renewed under this section, the building official shall send the applicant or evaluator a notice of the denial, suspension, revocation, cancellation or non-renewal. The notice shall state the proposed action to be taken and a summary statement of the reasons that such action is recommended. The notice shall also state that the proposed action will become final unless the applicant or evaluator files an appeal pursuant to this article.

(Code 1986, § 406.05(7))

Sec. 20-95. - Appeals.

- (a) Any applicant for a certified evaluator's certificate or any certified evaluator aggrieved by any administrative decision of the building official in accepting or rejecting any application for a certified evaluator's certificate, in determination of whether the evaluator is qualified, or in the denial, revocation, suspension, or non-renewal of a certified evaluator's certificate may make an appeal to the city council.
- (b) The city council may modify, sustain, or quash all or any portion of any order, interpretation, requirement, decision, or other determination made by the building official related to a certified evaluator's certificate. The council may not grant exceptions to this Code or act on other unrelated appeals.
- (c) A record of the meetings shall be kept which shall include a record of votes, findings, decisions, and official actions.
- (d) Appeals must be in writing, must specifically address the matter being appealed, must be filed with the inspection division within 30 days of the decision of the building official and be accompanied by a fee in the amount of \$100.00.
- (e) Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to the appellant by mail, addressed to the appellant at the appellant's address shown on the appeal. The city council shall hear the appeal and render its decision within 45 days of the filing of the appeal.
- (f) All hearings before the city council shall be open to the public. A record shall be kept of all proceedings. The city council may make specific findings or conclusions in connection with any decision upon any appeal.
- (g) All decisions of the city council shall become final when notice is communicated to the appellant in writing and shall become effective and enforceable at such time or at such alternative time as specified in the decision.

(Code 1986, § 406.05(8), (9))

Secs. 20-96—20-118. - Reserved.