

ORDINANCE

By Schroeder and Gordon

Amending Title 12, Chapter 248 of the Minneapolis Code of Ordinances relating to Housing: Truth in Sale of Housing.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That section 248.70 of the above-entitled ordinance be amended to read as follows:

248.70. – Disclosure report. (a) The city shall prepare or authorize the use of such form or forms as it may deem appropriate to constitute a disclosure under section 248.20 and this section.

~~(1)~~ (b) The disclosure report shall provide information concerning minimum code requirements applicable to existing single- and two-family dwellings, townhouses, first time condominium conversion units which, when not complied with, constitute:

~~a-~~ (1) A major structural defect.

~~b-~~ (2) An immediate danger to the health and safety of the occupant.

~~c-~~ (3) A violation of the minimum housing code.

~~(2)~~ (c) The information shall indicate, with appropriate comments, whether the condition at the time and date of the evaluation:

~~a-~~ (1) Meets minimum city requirements.

~~b-~~ (2) Is below minimum city requirements.

~~c-~~ (3) Is a suggested correction; repair/replace is recommended but not required.

~~d-~~ (4) Is a required repair/replace item as specified in section 248.80.

~~e-~~ (5) Is not applicable/does not apply.

~~(3)~~ (d) 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.

~~(4)~~ (e) Nothing in the disclosure report shall indicate, or shall be deemed to indicate, that such dwelling meets all minimum housing and building standards. No warranty is expressed or implied.

~~(5)~~ (f) The disclosure report shall also indicate:

~~a-~~ (1) Whether or not there are housing orders pending regarding the property issued by the department of regulatory services, City of Minneapolis.

b. (2) Whether the property is condemned or not.

c. (3) The dwelling's current zoning status.

d. (4) A discrepancy with city records regarding number of units.

e. (5) Whether the property is conforming or nonconforming.

~~(f)~~ (g) The disclosure report shall include certification that a professional opinion prepared by a professional architect or engineer, licensed in this state, describing the following was available to prospective purchasers in first time condominium conversions:

a. (1) Present condition of all structural components, including the age and condition of the roofing system.

b. (2) Present condition of all common mechanical, electrical, heating, water, gas, plumbing, and fire safety installations located in the building, including systems located in and/or servicing the common areas of first time condominium conversions.

c. (3) A statement regarding the expected useful life of each installation, system, or structure, or facility noted above.

Section 2. That Chapter 248 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 248.75 to read as follows:

248.75. – Energy disclosure report. (a) A separate report specific to the dwelling energy efficiency condition shall be generated and disclosed in accordance with section 248.20 and this section.

(b) The energy disclosure report shall provide an energy asset rating that includes information on the following structural and mechanical assets:

(1) Attic insulation. R-value of insulation, calculated based on industry standards for insulation type and number inches, recorded for each attic area in the home, including square footage of that area.

(2) Wall insulation. R-value of insulation, calculated based on industry standards for insulation type and number inches, plus the square footage of exterior walls. For homes built before 1980 insulation levels must be visually verified by drilling and capping a single hole in an exterior wall, or utilizing an existing hole from a previous evaluation. If other technologies for determining wall insulation R-value are approved by the building official they may also be used.

(3) Heating system efficiency. Heating system type, AFUE, venting and age recorded.

(4) Window efficiency. Record information on window type, and presence of any single pane windows with no storm windows or broken windows.

(5) Home air leakage. Measured by a blower door test. Record ventilation system type, if present, to gauge indoor air quality.

(c) The energy disclosure report shall prioritize asset investment recommendations based on project cost-effectiveness.

(1) Recommendations shall be made if a project is expected to have a simple payback of ten (10) years or less.

(2) Recommendations shall be prioritized based on the energy savings potential of the recommended project.

(3) Information on the expected cost and savings, based on City approved methodology, of the project shall be included.

(d) The energy disclosure report shall outline next steps that can be taken to improve the energy asset rating of the home.

(1) Next steps shall be prioritized on the report so it is apparent what action could be taken next.

(2) Information on who to contact with questions on next steps and/or the report shall be provided.

(e) Home sellers can meet the energy disclosure report requirement if they have had a truth-in-sale of housing evaluation with an energy disclosure report or an energy audit that included an energy asset rating in the last two (2) years. An energy certification recognized by the City of Minneapolis will also qualify. The asset rating and audit report or certification must be disclosed in accordance with section 248.20 and this section.

Section 3. That Section 248.120 of the above-entitled ordinance be amended to read as follows:

248.120. - Appeals board ~~appointment, terms.~~ ~~(a) appeals board shall be established with members appointed by the city council, and shall consist of ten (10) members. The membership shall include the director of regulatory services, or the director's designee, the director of the community planning and development agency (CPED), or the executive director's designee, an attorney representing the city attorney's office, and a public representative from each of the following: the financial community, the real estate business, a person experienced in construction, one (1) member each from the Minnesota Society of Housing Inspectors (MSHI) and the American Society of Home Inspectors (ASHI), and two (2) from the general public.~~

~~(b) The director of regulatory services, or the director's designee, the director of the community planning and development agency (CPED), or the executive director's designee, and an attorney representing the city attorney's office shall serve in a nonvoting capacity.~~

~~(c) Each appointment shall be for a period of two (2) years and shall continue until a replacement has been duly appointed and qualified.~~

~~(d) Each public member shall be compensated fifty dollars (\$50.00) per meeting attended, not to exceed six hundred dollars (\$600.00) per year.~~

~~(e) Public members of the board must reside in the city.~~

(a) An appeals board shall be established. The board shall consist of the director of regulatory services or the director's designee, the fire marshal or the fire marshal's designee, and the building official or the building official's designee. Two (2) members of the board shall constitute a quorum. The board shall make decisions by a majority vote. The administrative decision of the building official or the building official's designee, which is being appealed, shall be upheld if the panel is deadlocked.

(b) The board shall have authority to hear and decide all appeals from:

(1) Any applicant or evaluator aggrieved by any administrative decision of the building official, or the building official's designee, in accepting or rejecting any application for examination; in any determination of whether the person is qualified, in any issue related to the testing process; in accepting or rejecting educational credits; or to deny, revoke, suspend or not renew an evaluator's license may make an appeal to the board.

(2) Any owner of property or other person directly and personally affected by any of the disclosure report or energy disclosure report may, either personally or through their representative, make an appeal to the board.

(c) Any appeal must be by written notice filed with the building official within thirty (30) days of the decision or proposed action being appealed. The notice of appeal shall contain a concise statement of the grounds for the appeal and shall be accompanied by a fee of one hundred dollars (\$100.00). The building official shall have the authority to summarily grant the appeal and to waive the appeal fee. If the building official does not summarily grant the appeal, the appeal shall proceed to the board to be heard and acted upon, unless withdrawn.

(d) The board shall designate one member to act as chair to preside over meetings. The board shall meet at the call of the chair to hear appeals. The board shall notify the appellant in writing of the time and place of the hearing. The notice shall be issued at least ten (10) days prior to the hearing unless the appellant consents to an earlier scheduling and shall inform the appellant of the right to appear individually or through a representative, the right to call, examine and cross-examine witnesses at the hearing and offer such evidence as may bear on the decision of the board, and that the hearing will be recorded. The notice shall be given to the appellant by mail, addressed to the appellant at the appellant's address shown on the appeal.

(e) At the hearing the board shall hear all relevant evidence and argument. The board may admit and give probative effect to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The board shall record the hearing and keep a record of all evidence submitted.

(f) The board shall hear the appeal and render its decision within forty-five (45) days of the filing of the notice of appeal. The board may uphold, modify or overturn the decision being appealed. The decision of the board shall be in writing and shall summarize the reasons for the decision and shall be mailed to the appellant. The board shall make its determination based upon a preponderance of the evidence.

(g) The decision of the board shall constitute the final decision of the city.

Section 4. That Sections 248.130 through 248.160 of the above-entitled ordinance be and is hereby repealed.

~~**248.130. — Meetings of the board.** Regular meetings of the board shall be held monthly or otherwise as needed.~~

~~**248.140. — Duties of the board.** (a) The appeals board shall elect a chair who shall preside over meetings of the board and a vice-chair who shall preside in the absence of the chair.~~

~~(b) The director of regulatory services, or the director's designee, shall act as secretary to the board and shall have the duty to keep all records.~~

~~(c) The following shall be the duties of the board:~~

~~(1) Adopt rules and procedures for appeals.~~

~~(2) Make available copies of such rules and procedures.~~

~~(3) Hear and act upon all appeals. The board may modify, sustain, or quash all or any portion of any order, interpretation, requirement, decision, or other determination made by the director of regulatory services, or the director's designee. The board may not grant exceptions to the code or act on other unrelated appeals.~~

~~(d) The secretary shall keep minutes of the board meetings including a record of votes, findings, and decisions, official actions, and appeals.~~

~~**248.150. — Right to appeal, procedures.** (a) Any applicant or evaluator aggrieved by any administrative decision of the building official, or the building official's designee, in accepting or rejecting any application for examination; in any determination of whether the person is qualified; in any issue related to the testing process; in accepting or rejecting educational credits; or to deny, revoke, suspend or not renew an evaluator's license may make an appeal to the board.~~

~~(b) Any owner of property or other person directly and personally affected by any required repair/replace order may, either personally or through their representative, make an appeal to the board.~~

~~(c) Any appeal must be by written notice filed with the building official within thirty (30) days of the decision.~~

~~(1) The payment of a fee in the amount of one hundred dollars (\$100.00) will accompany the submission of the appeal from owners or their representative to cover administration and handling costs. Evaluators and design professionals appealing a disciplinary action by the city are exempt from this fee.~~

~~(d) The board shall hear the appeal and render its decision within forty-five (45) days of the filing of the notice of appeal.~~

~~(1) Written notice of the time and place of the hearing shall be given at least ten (10) 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.~~

~~**248.160. — Hearings and decisions.** (a) All meetings before the board shall be public and shall be posted.~~

~~(b) A record shall be kept of the proceedings.~~

~~(c) The board may, at its option, make specific findings and/or conclusions in connection with any decision upon any appeal.~~

~~(d) All decisions by the board shall become final when notice is communicated to the appellant or representative in writing and shall become effective and enforceable at such time or at such alternative time as specified therein.~~

~~(e) Decision of the appeals board, with respect to these duties shall be final, subject to appeal to the Minneapolis City Council. Any board decision or order to an evaluator or owner or their representative filing the appeal, shall include a written statement notifying them of the right to appeal that order or decision to the city council.~~

~~(f) Any applicant, evaluator, owner or their representative aggrieved by a decision of the board may appeal such decision to the city council by filing a written request with the city clerk within fifteen (15) days of receipt of the board's decision.~~

~~(1) If an appeal is filed, the city clerk shall, within two (2) weeks, fix a date for a public hearing.~~

~~(2) The city clerk shall mail a notice of the date, time, place and subject of the hearing to the person requesting the appeal and to the board and to the building official, or the building official's designee.~~

~~(g) All such appeals shall be on the record and shall be heard by the regulatory, energy and environment committee. The regulatory, energy and environment committee shall then make a recommendation to the city council.~~

~~(1) At the time of the regulatory, energy and environment committee public hearing, the committee shall hear from the person requesting the appeal, any board member or their designee, and any other party who wishes to be heard regarding the appeal.~~

~~(h) The regulatory, energy and environment committee may reverse, confirm, or modify the board's order or decision and shall then make a recommendation to the city council.~~

~~(1) The city clerk shall mail a copy of the city council's decision of the appeal to the person making the appeal, the board chair, and the building official, or the building official's designee.~~

Section 8. That Section 248.170 of the above-entitled ordinance be amended to read as follows:

248.170. - Denial, revocation, suspension or cancellation of license. (a) Any evaluator's license issued or proposed to be issued under this chapter may be denied, revoked, suspended, cancelled or not renewed by an administrative decision by the building official, or the building official's designee, if the applicant or evaluator:

(1) Is convicted of any crime related to the licensed occupation, pursuant to Minnesota Statutes, Section 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 Minnesota Statutes, Section 364.03, Subd. 3.

(2) In the application process for issuance or renewal of a license knowingly falsifies, conceals, misrepresents or misstates any material fact or matter bearing upon the holder's eligibility or competency.

(3) Obtains, attempts to obtain, or assists another in obtaining or attempting to obtain an evaluator's license through fraudulent or other improper means.

(4) Fails to provide satisfactory proof of insurance insuring the applicant/evaluator and the city or allows such insurance to laps.

(5) Fails to pay the required fees.

(6) Fails 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 incompetency or inefficiency in conducting evaluations.

(9) Violates any of the provisions of this chapter or any conditions provided for in the license issued pursuant to this chapter.

(10) For just cause.

(b) If the building official, or the building official's designee, determines that a truth-in-sale of housing evaluator's license should be denied, suspended, revoked, canceled or not renewed under this section, the building official, or the building official's designee, shall send the applicant or evaluator a notice of denial, suspension, revocation, cancellation or nonrenewal.

(1) The notice shall state the proposed action to be taken and a summary statement of the reason or reasons that such action is recommended.

(2) The notice shall state that the proposed action will become final unless the applicant or evaluator files an appeal pursuant to sections ~~248.160~~ 248.120 and 248.170.