

Section 406 - Truth in Housing

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

406.03. Definitions. Subdivision 1. For the purpose of this chapter, the following terms shall mean:

Subd. 2. "Building Official" shall be the building official of the City of Hopkins or his authorized designee.

Subd. 3. "Buyer" is a person who acquires real estate by means other than descent or inheritance and usually for money or the equivalent.

Subd. 4. "Certified Evaluator" means an individual who holds a current Certified Evaluator Certificate as issued by the City of Hopkins.

Subd. 5. "Condominium" means a dwelling unit in a building containing two or more dwelling units that is 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/her own unit.

Subd. 6. "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 also includes any accessory structures in connection therewith.

Subd. 7. "Owner" means a person who owns occupies or operates by deed or other instrument of conveyance any premises; the term 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 includes a person or committee supervising, policing or maintaining any cooperative or other common building area, dwelling units, or any condominium unit owners association.

Subd. 8. "Purchase agreement" means an agreement deed, contract for deed or any other instrument of transfer or conveyance of residential premises; the term does not include the transfer of a document made solely for perfecting title.

Subd. 9. "Time of Sale". 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.

Subd. 10. Townhouse: 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.

Subd. 11. "Truth-in-Housing and Zoning Disclosure Report." The report meeting the requirements of Section 406.05, Subd. 2.

406.05. Truth in Housing and Zoning Disclosure Report. Subdivision 1. Required. No owner, agent of the owner, or person licensed by the State of Minnesota 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 Truth-in-Housing and Zoning Disclosure Report for the dwelling unit or units offered for sale. The Truth-in-Housing and Zoning Disclosure Report shall be made available for inspection at the premise at all times that the premise is being offered for sale. The Report shall have been issued within one (1) year preceding the time of sale.

Subd. 2. The Truth-in-Housing and Zoning Disclosure Report and Inspection. A certified evaluator shall conduct an inspection and prepare a Truth-in-Housing and Zoning 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.

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 of Hopkins 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. 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/replace
- 4) Not applicable

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

The form shall include the following signed disclosures by the evaluator:

- 1) Whether or not there are housing orders pending on the property issued by the Inspections Division.
- 2) If the current use is conforming or nonconforming in accordance with the City Zoning Ordinance. Nonconforming uses must be verified in writing by the city zoning administrator.
- 3) The dwellings homestead classification in regard to real estate taxes payable.

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 storm water, groundwater, roof runoff, yard drainage, foundation drains, or sump pumps into the sanitary sewer.

No Truth-in-Housing and Zoning Disclosure Report shall be deemed valid without the aforementioned disclosures. Further, no owner or agent of the owner shall sell such 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.

The Truth-in-Housing and Zoning Disclosure Report shall be legible, be printed in ink or by other permanent means, and be 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.

The inspection and report are not intended to be a warranty and no warranty is expressed or implied. Nothing in said report shall indicate, or shall be deemed to indicate, that said dwelling unit meets all minimum housing standards.

Subd. 3. Resale of dwellings. A new Truth in Housing and Zoning Disclosure Report shall be required for each change of ownership or time of sale.

Subd. 4. Exemptions. The provisions of this chapter shall not apply to the sale or conveyance of any condominium or townhouse or any building containing one, two, three, or four dwelling units:

1. To a federal, state, or local governmental unit. When title is transferred to the first owner following construction.
2. 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.
3. From an owner to a relative. For purposes of this exception, relative shall be defined as a husband, wife, father, mother, son, daughter, brother, sister, grandson, granddaughter, grandfather, or grandmother.

Subd. 5. Certified Evaluator Certificate. No Certified Evaluator Certificate shall be issued or renewed by the City of Hopkins without application on the approved form and proof that the applicant has a current unexpired certificate of competency as issued by the City of Bloomington, City of Minneapolis or the City of St. Paul. The applicant shall also show proof of general liability insurance insuring the applicant with a minimum limit of liability of two hundred fifty thousand dollars (\$250,000) general aggregate and per occurrence and errors and omissions insurance with a minimum limit of liability of two hundred fifty thousand dollars (\$250,000) which may include a deductible not exceeding five thousand dollars (\$5,000) and 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. 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 furnish the city with a certificate of insurance which meets the city requirements. The applicant shall also pay the fee as set forth by City Council Resolution. No certified evaluator shall allow their Certified Evaluator Certificate to be used by another person. No person shall fill out a Truth-in-Housing and Zoning Disclosure Report without first obtaining and maintaining a Certified Evaluator Certificate from the city as provided for in this chapter. The evaluator shall be required to maintain a current unexpired certificate of competency as issued by the City of Bloomington, City of Minneapolis or the City of St. Paul in order to be certified in the City of Hopkins. (Amended Ord 2004-926)

Subd. 6. Renewal of Certified Evaluator Certificates. Certified Evaluator Certificates expire on December 31st 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.

Subd . 7 Suspension or Revocation of Certified Evaluator Certificates. Any certified evaluator's certificate 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 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 lapse.
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 incompetence 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. Fails to abide by the code of ethics.
11. For just cause.

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.

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 section 406.05, subd. 8.

Subd. 8. Appeals, Procedures. 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.

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 the code or act on other unrelated appeals. A record of the meetings shall be kept which shall include a record of votes, findings, decisions, and official actions.

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 one hundred dollars (\$100.00).

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. The City Council shall hear the appeal and render its decision within forty-five (45) days of the filing of the appeal.

Subd. 9. Hearings and Decisions. 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 and/or conclusions in connection with any decision upon any appeal. 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.

Subd. 10. City employees not to be certified. No employee of the City shall be certified under this Chapter.

Subd. 11. Residency or mailing requirements. Any person certified under this Chapter shall cause to keep registered with the city, his current residency, or mailing address and telephone number.

Subd. 12. Report filing and filing fees. Each Certified Evaluator shall submit to the city an exact duplicate or copy of each Truth-in-Housing and Zoning Disclosure Report within ten (10) 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.

When a Truth-in-Housing and Zoning Disclosure Report is not filed with the City within ten (10) days of the evaluation inspection, it shall become null and void.

Subd. 13. Mandatory correction of repair/replace items. The following items shall be identified by the certified evaluator as Repair/Replace and be marked as such in the Truth-in-Housing and Zoning 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 and/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 back flow prevention is required but that are not provided with a backflow preventer.
4. Water heaters, hot water boilers, furnaces, or other fuel burning equipment where any of the following occur:

- a. Lack of or inoperable pressure/temperature relief valve on water heaters or boilers.
 - b. Relief drain piping that is undersized, does not extend to within 18 inches of the floor, or is plugged or capped.
 - c. Fuel burning appliances that are located in a tight, confined space and are not provided with proper combustion air by an opening or openings in the enclosure. The open area of the combustion air intake shall not be less than the area of the common flue or flues of the appliances within the enclosure.
 - d. 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.
 - e. A chimney or vent system for any fuel burning appliance that lacks sufficient clearance to combustibles; 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.
 - f. Any fuel burning freestanding space heaters located in bedrooms or bathrooms, which take their combustion air from the room in which they are located.
 - g. 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.).
5. Lack of, improperly installed, or inoperable smoke detectors as required by State Law. Battery powered detectors may be used.
 6. 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.
 7. 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.
 8. 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.
 9. Any other condition where in the opinion of the certified evaluator a distinct imminent life threatening hazard to the occupants of the structure exists.

The owner shall promptly correct all items marked as repair/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. If there are no items marked as repair/replace or when all items marked repair/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. The buyer, designated in a Purchase Agreement, may elect to correct the items marked as repair/replace in the Truth-in-Housing and Zoning 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.

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/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.

406.07. Certificates: reports: truth in housing reports and filings. Reports, certificates, and filings shall be kept in the Inspections Office. A copy may be furnished to the owner or other authorized person upon request.

406.09. Appeals of Truth-In-Housing and Zoning Disclosure Reports. An owner or buyer aggrieved by a Truth-in-Housing and Zoning Disclosure Report may appeal from the action of the certified evaluator to the building official who shall make a ruling on the appeal.

406.10. Failure to Comply. If an owner or an agent for the owner sells by conveyance or contract for conveyance any dwelling regulated by this section without complying with all of the requirements of this section, 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 offending owner shall mean the owner selling the property without benefit of a Truth-In-Housing and Zoning Disclosure Report. Any repair/replace items identified by the Truth In Housing and Zoning Disclosure Report shall become a civil matter between the buyer and the seller.

406.11. Penalties. A person who violates any of the terms of this code or who fails to comply with any order issued by the housing inspector pursuant to this code may be charged with a misdemeanor or be subject to the issuance of an administrative citation as provided in section 355. Each day the owner fails to comply with any such order shall constitute a separate offense. 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 such code violations are remedied and an approval certificate is issued.

406.13. Warranty Disclaimer on behalf of the city. By enacting and undertaking to enforce this section, 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 or occupants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare prior to purchase or occupancy of the dwelling.

(Added Ord. No. 92-705) (Amended Ord. 2002-889)