

Member Rogan moved and Member Blonigan seconded a motion that the following Ordinance, which was given its first reading on December 2, 2008, be given its second reading this 20<sup>th</sup> day of January, 2009, and that it be adopted.

**ORDINANCE NO. 08-15**

**AN ORDINANCE AMENDING CHAPTER IV OF THE ROBBINSDALE CITY CODE (BUILDING, HOUSING AND CONSTRUCTION REGULATIONS) CREATING REQUIREMENTS FOR A POINT OF SALE INSPECTION AND REPORT TO DISCLOSE HOUSING INFORMATION AND DEFECTS AS A CONDITION OF THE SALE OF HOUSING.**

**THE CITY COUNCIL OF THE CITY OF ROBBINSDALE DOES ORDAIN:**

1) Section 1. That Chapter IV of the Robbinsdale City Code containing BUILDING, HOUSING AND CONSTRUCTION REGULATIONS is amended to include the new Section 435 with new language underlined as follows:

**Section 435 - Point of Sale housing disclosure**

**435.01 Purpose.** The City of Robbinsdale has determined that it is in the interest of protecting the public health, safety and welfare to maintain, preserve and improve residential housing by requiring the disclosure of housing information and defects as a condition of the sale of housing. The City Building Official may use this information to require the correction of code violations.

**435.02 Definitions.** For the purpose of this section, the following terms shall mean have the meanings set forth below:

Subd. 1. “Building Official” is the building official of the City of Robbinsdale.

Subd. 2. “Buyer” is a person who acquires real estate by means other than descent or inheritance and usually for money or the equivalent.

Subd. 3. “Certified Evaluator” is an individual who holds a current Certified Evaluator License as issued by the City of Robbinsdale.

Subd. 4. “Owner” is 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 on behalf of 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. 5. “Purchase agreement” is 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. 6. “Point of Sale.” is ~~are~~ time when a written 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 or three dwelling units.

Subd. 7 “Point of Sale Disclosure Report” ~~are~~ consists of forms provided by the City of Robbinsdale that provide information concerning code requirements applicable to existing condominiums or townhouses or any building containing one, two or three dwelling units and the disclosures referenced in this Section.

**435.03. Applicability.** This section shall not apply to any newly constructed housing or residential building when the title is conveyed to:

- A. The first owner, except that no owner shall convey or contract to convey a newly constructed housing unit or residential building without first providing to the buyer:
  - 1) A list of names, addresses and telephone numbers of all contractors and subcontractors who constructed the building.
  - 2) The items referred to in Section 430.07 Subd. 2D of the disclosure report.
- B. ~~To a~~ A federal, state or local governmental unit. ~~W~~hen the title is transferred to the first owner following construction.
- C. For one year from the date of the final inspection or certificate of occupancy of a newly constructed condominium, townhouse or any building or structure containing one, two or three dwelling units.
- D. From an owner to a relative. For purposes of this exception, relatives shall be defined as a husband, wife, father, mother, son, daughter, brother, sister, grandson, granddaughter, grandfather or grandmother.

**435.04. License.** Subdivision 1. No person shall fill out a Point of Sale disclosure report in the city without having a valid license. The city will only approve people as certified evaluators who are licensed as Point of Sale evaluators in Bloomington, Minneapolis or St. Paul. The evaluators must submit a copy of their Point of Sale license and any certification papers to the city from the City of Bloomington, the City of Minneapolis or the City of St. Paul. Every Certified Evaluator who works in the City must have a City license. The city will automatically revoke or cancel a housing evaluator’s license if it is revoked or cancelled for violation of law or violation of the housing evaluator’s code of ethics in either Minneapolis or St. Paul. The city may require the passing of a test that shows the evaluator’s knowledge of the housing code. The city may then issue a license which is valid for one year. The city may issue renewals of all such licenses. If a license lapses for one year or more, the person who held such license shall reapply

to the city for renewal. No holder of a license or license from the city shall allow another person to use such license.

Subd. 2. The City Council may revoke the license of a ~~housing~~ Certified Evaluator for cause. At least ten days before the hearing, the city shall send written notification to the mailing address used in the evaluator's application. The notice shall list the date, time and place of the hearing and of the specific reasons for the suspension. The City Manager may, at the manager's discretion, suspend the license of a housing evaluator pending a suspension hearing.

**435.05 Insurance.** Subdivision 1. No license shall be issued or renewed without satisfactory proof of insurance insuring the evaluator.

- A. The city shall be included as a named insured on the required insurance, and any additional cost for including the city shall be at the expense of the evaluator.
- B. The evaluator's insurance shall remain in force continuously thereafter, and no license shall be deemed to be in effect during any period of time when such insurance and proof thereof are not also in effect
- C. Each evaluator shall have an individually named insurance policy.
- D. The insurance policy shall provide coverage of not less than \$250,000.00 per claim or \$500,000.00 per year, aggregate, against any and all liability imposed by law resulting from the performance of the duties as a certified Point of Sale evaluator.

**435.06 Housing evaluation fees.** ~~The fee schedule is in Appendix B for the filing of Point of Sale disclosure reports.~~ for the filing of point of sale disclosure reports shall be as determined by the City Council from time to time in a schedule titled "Appendix B."

**435.07 Disclosure report.** Subdivision 1. An owner shall not show a housing unit or residential building to a prospective buyer without publicly displaying and making available a Point of Sale disclosure report. This report shall be at the housing unit or residential building at the time of showing and within three days of listing. A copy of the disclosure report must be filed within 15 days with the city to be valid. A double filing fee shall be collected by the city if the report is not filed within 15 days.

Subd. 2. A Point of Sale disclosure report shall be on forms provided by the city. It shall include the following:

- A. An evaluation by a the Certified Evaluator providing information concerning code requirements applicable to existing condominiums or townhouses or any building containing one, two or three dwelling units and the disclosures referenced in this section. This evaluation shall include, but not be limited to, items addressed in the Point of Sale Uniform Guidelines which are periodically updated and adopted by the City Council by resolution.

- B. For each area of the dwelling evaluated, the Certified Evaluator shall categorize the condition of the area and provided additional explanation in the comment section for all of the following:
1. Meets city requirements.
  2. Below city requirements.
  3. Repair/replace items shall be deemed to pose an immediate danger to the health and safety of the occupant.
  4. Suggested Correction shall mean an optional repair that should be disclosed to the buyer.
  5. Not applicable.
  6. Comments providing additional information as to the item of concern, location and source cause, if known.
  7. Not visible / Not able to view
- C. The form shall include a signed disclosure by the Certified Evaluator indicating whether or not there are housing orders pending on the property issued by the Building department.
- D. The form shall include the following signed disclosures by the owner acknowledging:
1. Any damage to the building or its contents by flooding or sewer backup and any evidence of chronic water seepage of which the owner has knowledge.
  2. The nature, extent and cause of any water seepage or flooding of any portion of the property.
  3. Any abandoned, unused or uncapped wells.
  4. Any discharge of storm water, ground water, roof runoff, yard drainage, foundation drains, or sump pumps into the sanitary sewer.
  5. Whether or not there are any pending housing or rental inspection orders from the city about the property.
  6. Any other known defects or problems that are not visible.

**435.08. Limitations.** Subdivision 1. In making an evaluation pursuant to this Section, the Certified Evaluator shall consider any concealed facilities to be adequate. The evaluator shall base the evaluation on the functional operation of the facility and the condition of the equipment that is viewed. No other warrant is expressed or implied.

Subd. 2. No one shall consider anything in a Point of Sale disclosure report to imply that a residential building or housing unit meets all minimum building standards. In addition, no one shall consider anything in the report to imply a warrant of the condition of the housing evaluated. The Certified Evaluator warrants that they have used reasonable care and diligence in inspecting and evaluating the building.

**435.09. Mandatory correction of repair/replacement items.** Items shall be identified by the Certified Evaluator as Repair/Replace and be marked as such in the Point of Sale disclosure report as referred to in the Point of Sale Uniform Guidelines.

**435.10. Correction of repair/replace items.** Subdivision 1. 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 the section.

Subd. 2. The buyer, designated in a purchase agreement, may elect to correct the items marked as repair/replace in the Point of Sale 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, including, but not limited to, conditions related to occupancy, as may be required by the building official.

~~Subd. 3. 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.~~

Subd. 4~~3~~. Appeals of the Point of Sale disclosure reports. An owner or buyer aggrieved by a Point of Sale disclosure report may appeal from the action of the certified evaluator to the City Manager who shall make a ruling on the appeal.

**435.11. Violations.** Any person failing to meet and follow the requirements of this section shall be guilty of a misdemeanor and upon conviction, shall be punished in accordance with Section 115 of the Robbinsdale City Code.

2) **This ordinance will be effective 30 days after publication but enforcement shall be delayed until May 1, 2009.**

3) **That the following summary clearly informs the public of the intent and effect of the ordinance and is approved for publication:**

**“The purpose of this ordinance is to create a requirement for a point of sale inspection and report disclosing housing information and defects as a condition of the sale of housing. The report will provide prospective buyers detailed information regarding the condition of various components of the house for sale and require the repair and replacement of items deemed potentially hazardous to occupants.”**

First Reading: YEAS: **Selman, Blonigan, Rogan, Mayor Holtz**

NAYS: **T. Mathias**

Second Reading: YEAS: **Rogan, Selman, Blonigan Mayor Holtz**

NAYS: **Mathias**

Passed by the City Council this 20<sup>th</sup> day of January, 2009.

---

Michael A. Holtz, Mayor

ATTEST:

---

Tom Marshall, City Clerk

(SEAL)