

ORDINANCE NO. 15,646

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 60-221, repealing Section 60-229, and adding and enacting new Sections 60-229 and 60-230, relating to real estate contract sales inspections.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Section 60-221, repealing Section 60-229, and adding and enacting new Sections 60-229 and 60-230, relating to real estate contract sales inspections, as follows:

Sec. 60-221. Definitions.

For the purpose of this Article, the following definitions shall apply; otherwise, definitions in Section 60-19 shall apply:

Authorized management agent means any person appointed by the owner(s) who has charge, care, or control of a structure or premises which is being sold on contract. Such person shall be authorized to accept service of communications from the City of Des Moines.

Contract shall mean a real estate installment purchase agreement for the intended transfer of residential real property and mobile homes between a buyer and seller.

Contract buyer shall mean the person or entity purchasing or acquiring the residential real property or mobile home.

Contract seller shall mean the person or entity offering or transferring the residential real property for sale, or anyone acting on behalf of the contract seller.

Inspection shall mean a physical examination of the real estate, structure(s), and mobile homes to determine if the real estate, structures, and mobile homes meet the code requirements set out in this Article, which shall include, but not be limited to, a review of the accessory structures, structural components, exterior, roofing, plumbing, heating, cooling, electrical, insulation and ventilation, interior, fireplace, and solid fuel burning appliances of the real estate.

Person shall mean an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or an association, or any other legal entity.

Transfer shall mean the conveyance by sale, exchange, contract, or by any other method by which an interest in real property is conveyed. For the purpose of this Chapter, transfer shall not mean the following:

- (1) A transfer made pursuant to a court order, including but not limited to a transfer under Iowa Code Chapter 633 or 633A, the execution of a judgment, the

foreclosure of a real estate mortgage pursuant to Iowa Code Chapter 654, the forfeiture of a real estate contract under Iowa Code Chapter 656, a transfer by a trustee in bankruptcy, a transfer by eminent domain, or a transfer resulting from a decree for specific performance.

- (2) A transfer to a mortgagee by a mortgagor or successor in interest who is in default, a transfer by a mortgagee who has acquired real property as a result of a deed in lieu of foreclosure or has acquired real property under Iowa Code Chapter 654 or 655A, or a transfer back to a mortgagor exercising a right of first refusal pursuant to Iowa Code Section 654.16A.
- (3) A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.
- (4) A transfer between joint tenants or tenants in common.
- (5) A transfer made to a spouse, or to a person within the third degree of consanguinity or affinity of a person making the transfer.
- (6) A transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to Iowa Code Chapter 598.
- (7) A transfer to or from the state, a political subdivision of the state, another state, or the United States.
- (8) A transfer by deed.
- (9) A transfer by a power of attorney.

Real estate installment purchase agreement means an agreement which is payable in installments, not including the down payment. This Article does not apply to contracts for commercial property, vacant lots, or new construction within one year of the issuance of a Certificate of Occupancy.

Workmanlike means repairs, maintenance work, alterations or installations that are a request, directly or indirectly, by the enforcement of this Article which shall be executed and installed in accordance with the manufacturer's instructions and executed in a skilled manner, generally plumb, level, square, in line, undamaged, without marring adjacent work, using compatible materials approved for the use, like in nature and look to remaining material if there is a partial replacement or repair to maintain the structure and premise in good condition.

Sec. 60-229. Repealed by Ord. No. 15,646.

Sec. 60-229. Notice of Compliance.

- (a) Upon compliance with this Article, the Division shall issue a Notice of Compliance to the contract seller(s) and contract buyer(s) accompanied by a bill for all fees owed.
- (b) The Notice of Compliance issued under this Article shall contain the following information:
 - (1) The contract seller(s) and contract buyer(s) names;
 - (2) Contact information for the contract seller(s) and contract buyer(s);
 - (3) The local address and type of structure;
 - (4) The date upon which the contract was recorded;

- (5) The book and page number of the recorded contract;
- (6) The date of compliance; and
- (7) The date of issuance.
- (c) Once the notice of compliance is issued, the Division shall take no further action pursuant to this Article unless the property is subsequently transferred by contract.
- (d) The contract seller(s) and contract buyer(s) shall provide a copy of the notice of compliance upon request.

Sec. 60-230. Appeals.

Appeals shall be handled as set forth in this Chapter. The Housing Appeals Board shall have the authority to enter fines for failure to comply with this Article as set out in the schedule of fees adopted by the city council by resolution.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Jessica D. Spoden, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 18-308), passed by the City Council of said City at a meeting held February 21, 2018 signed by the Mayor on February 21, 2018 and published and provided by law in the Business Record on March 9, 2018. Authorized by Publication Order No. 10222.

Diane Rauh, City Clerk

