

ORDINANCE NO. 14,205

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, and amended by Ordinance No. 14,146, passed October 7, 2002, by amending Sections 26-240 and 26-242, relating to real estate installment 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, and amended by Ordinance No. 14,146, passed October 7, 2002, is hereby amended by amending Sections 26-240 and 26-242, relating to real estate installment contract sales inspections, as follows:

**Sec. 26-240. Definitions.**

For the purpose of this section, the following definitions shall apply:

*City* shall mean the City of Des Moines, Iowa.

*Contract* shall mean a real estate installment purchase agreement for the intended transfer of residential real estate between a buyer and seller. A real estate installment purchase agreement is one which is payable in more than four (4) installments, not including the down payment. This division does not apply to contracts for commercial property, vacant lots or new construction.

*Contract buyer* shall mean the person or entity purchasing or acquiring the real property.

*Contract seller* shall mean the person or entity offering or transferring the real property for sale, or anyone acting on behalf of the contract seller. Contract seller shall not mean the following professionals licensed in Iowa acting on

behalf of a contract seller: attorneys, real estate brokers or salespersons.

*Director* shall mean the community development director of the city or his/her designee.

*Inspection* shall mean a physical examination of the real estate, which shall include, but not be limited to, a review of the structural components, exterior, roofing, plumbing, heating, cooling, electrical, insulation and ventilation, interior, fireplace and solid fuel burning appliances of the real estate.

*Inspection report* shall mean a report in a form approved by the neighborhood inspection division of the city and prepared by an inspector to describe an inspection.

*Inspector* shall mean the individual who performs the examination 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, as defined in section 1-2 of this Code.

*Transfer* shall mean the conveyance by sale, exchange, contract or by any other method by which real property is purchased. For the purpose of this ordinance, transfer shall not mean the conveyance of real estate interests as detailed under Iowa Code Section 558A.1 (4) (a, b, c, d, e, f, g and h).

**Sec. 26-242. Procedures; Fee.**

1. A person seeking to transfer real property by contract, or a broker, salesperson or agent acting on behalf of such person, shall obtain or update an inspection of the subject real estate not more than sixty (60) days prior to the execution of the contract.
2. The inspector shall prepare an inspection report of the physical examination of the real estate. The inspection report shall also include written certification that the inspector is a member of good standing in an eligible professional association, as detailed under section 26-241.
3. The inspection report shall be delivered to and received by the contract buyer and the neighborhood inspection division of the city at least fourteen (14) days prior to the execution of the contract. The inspection report may be delivered to the contract buyer by personal delivery, certified mail or by registered mail. Proof of delivery of the inspection report and a filing fee of \$75.00 shall be filed at least fourteen (14) days prior to the execution of the contract. Subsequent inspection reports and updates for the same property may be filed by the same contract seller without an additional filing fee prior to filing of the contract as provided in subsection 4.
4. Within seven (7) days following execution of the contract, the contract seller shall file with the neighborhood inspection division of the city copies of instruments transferring the real estate.
5. The city shall have the right to inspect and reinspect any property for which an inspection is required under this division. All persons with ownership or management interests in the property shall allow inspection or reinspection upon reasonable notice by the city.

6. Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a municipal infraction punishable by civil penalty as provided by section 1-15 of this Code.

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

FORM APPROVED:

David L. Phillips, Assistant City Attorney

Preston A. Daniels, 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. 03-310), passed by the City Council of said City at a meeting held February 10, 2003 signed by the Mayor on February 10, 2003, and published as provided by law in the Polk County Press Citizen on February 21, 2003. Authorized by Publication Order No. 3558.

Diane Rauh, City Clerk