



CITY of NOVI CITY COUNCIL

Agenda Item 5
March 27, 2017

SUBJECT: Approval of Ordinance Review Committee recommendation to adopt Ordinance No. 17-107.04, amending Chapter 18, "Housing," Article III "Disclosure Requirements for Sale of New Single-Family Residences," of the City of Novi Code, in order to repeal the regulations and provisions. **FIRST READING**

SUBMITTING DEPARTMENT: Community Development

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The Community Development staff has been tasked with identifying current City Ordinance provisions throughout the City Code that may be out of date, duplicative, or no longer efficient or required. The staff brought several such provisions to the Ordinance Review Committee for consideration at its January 6, 2017 meeting, including Ordinance No. 17-107.04, which repeals the disclosure requirements for single-family homes in Chapter 18.

These Ordinance provisions, adopted in 1983 and amended in 1994, require that certain specific information is available and provided to purchasers of new single-family homes within the City of Novi. In some cases, these requirements appear to exceed those required by the State of Michigan. Evidence of provision of the required information to the buyer(s) is by way of a signed, notarized affidavit. Community Development staff have dutifully been collecting these affidavits before issuance of each and every new home Certificate of Occupancy. City staff is not aware of any recent situation where this City-mandated disclosure provided a material impact on a dispute between home buyer and builder. In addition, any current site plan and/or development agreement are available in online City Planning Commission and City Council Packets. Master Plan documents as well as Woodland, Wetland and FEMA Flood maps are also available on the City website. The ORC's recommendation is to eliminate these requirements.

RECOMMENDED ACTION: Approval to adopt Ordinance No. 17-107.04, amending Chapter 18, "Housing," Article III "Disclosure Requirements for Sale of New Single-Family Residences," of the City of Novi Code, in order to repeal the regulations and provisions. **FIRST READING**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 17-107.04

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 18, "HOUSING," ARTICLE III, "DISCLOSURE REQUIREMENTS FOR SALE OF NEW SINGLE-FAMILY RESIDENCES," IN ORDER TO REPEAL THE REGULATIONS AND PROVISIONS THEREIN IN THEIR ENTIRETY.

THE CITY OF NOVI ORDAINS:

PART I. That Chapter 18, "Housing," Article III, "Disclosure Requirements for Sale of new Single-Family Residences," of the City of Novi Code of Ordinances is hereby repealed in its entirety.

ARTICLE III. - ~~DISCLOSURE REQUIREMENTS FOR SALE OF NEW SINGLE-FAMILY RESIDENCES~~
[RESERVED]

~~Sec. 18-36. Definitions.~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Builder means any person engaged in the construction of single-family residences in the city or in the development of subdivisions in the city containing single-family residences.~~

~~Newly constructed single-family residence means a single-family residence within the city that has not previously been owned and occupied as a residence. The term shall include site condominiums and other detached residential condominium units.~~

~~Seller means any person engaged in the sale of newly constructed single-family residences in the city, including sales or marketing agents for any builder.~~

~~Sec. 18-37. Disclosure statement required.~~

~~The seller of a newly constructed single-family residence shall provide the purchaser prior to or at the time of execution of the purchase agreement, a copy of a disclosure statement, as defined in section 18-38, together with copies of any express warranties relating to the sale of the residence, and copies of all recorded covenants and restrictions the property is subject to.~~

~~Sec. 18-38. Contents of disclosure statement.~~

~~The required disclosure statement shall, at a minimum include the following information:~~

- ~~(1) The name of the seller, as well as any other name under which the seller has conducted or intends to conduct business, and if the seller is a corporation, the name of any parent, subsidiary or other affiliated corporation;~~
- ~~(2) The seller's principal business address, and the name and address of its agent in this state authorized to receive process;~~
- ~~(3) If the seller is not the builder of the residence being purchased, the disclosure statement shall include:
 - ~~a. The name of the builder, as well as any other name under which the builder has conducted business within the preceding ten (10) years; and~~
 - ~~b. The builder's principal business address, and the name and address of its agent in this state authorized to receive process.~~~~
- ~~(4) A statement as to whether the purchase agreement will contain specific conditions under which it may be terminated by either party;~~
- ~~(5) Whether the property is subject to any recorded covenants, conditions or restrictions, including those relating to the following matters, and the content of any such recorded covenants, conditions or restrictions:
 - ~~a. A minimum square footage requirement for residences;~~
 - ~~b. A minimum front, back and side yard setbacks in excess of those required by the city;~~
 - ~~c. Required exterior building materials;~~
 - ~~d. Restriction as to unattached buildings;~~
 - ~~e. Restrictions as to additions to the initial or original dwelling;~~
 - ~~f. Restrictions limiting the location of a garage and/or limiting the orientations of the garage opening relative to any streets or contiguous homes;~~
 - ~~g. The location of any drainage easements;~~
 - ~~h. The location of any utility easements;~~
 - ~~i. Fence limitations;~~
 - ~~j. A description of any mandatory homeowner's association;~~
 - ~~k. Any mandatory homeowner's association dues;~~
 - ~~l. The voting procedures of any mandatory homeowner's associations, including but not limited to votes held by the builder or seller and votes held by purchasers;~~~~

~~m. Procedures for changing or amending covenants, conditions and restrictions.~~

~~(6) A map depicting:~~

~~a. All properties subject to the covenants, conditions and restrictions disclosed pursuant to subsection (5) of this section;~~

~~b. All properties subject to the restrictions of the woodlands regulations and wetland and watercourse regulations of the city. If the property includes land subject to the woodland regulations of the City of Novi, the map shall also include the telephone number of the city forester;~~

~~c. All public and private walkways, safety paths, bicycle paths and nature trails;~~

~~d. All storm drainage easements, including detention and retention areas, water main and sewer easements;~~

~~e. Whether the subdivisions in which the subject newly constructed single-family residence is located is part of an RUD, residential unit development, or PUD, planned unit development, all properties within the RUD or PUD; and~~

~~f. The school district within which the property is located.~~

~~(7) A statement as to whether the property, or any portion of the property, is located within a flood hazard area. For purposes of this article, flood hazard area means land which on the basis of available floodplain information is subject to a one (1) percent or greater chance of flooding in any given year.~~

~~Sec. 18-39. Posting of disclosure statement and zoning and master plan maps.~~

~~(a) Where sales of newly constructed single-family residences are made out of a model or sales office located within the city, the seller shall post in a conspicuous location in the model or sales office:~~

~~(1) A summary of the information required to be contained in the disclosure statement under section 18-38; and~~

~~(2) Copies of the zoning map and legends, master plan map and legends, woodlands map and legends and wetland and watercourse map and legends, for the city, depicting at least the area within a one-mile radius of the location of the subdivision, together with a notice that a prospective purchaser may examine at the offices of the city the most current versions of the zoning map, master plan map, woodlands map and wetlands and watercourses map. In addition, there shall be posted a map of the development depicting all areas regulated as woodlands and all areas regulated as wetlands or watercourses.~~

~~(b) Where the sales of newly constructed single-family residences are made out of a model or sales office located within the city, the seller shall make available for inspection by prospective purchasers copies of a disclosure statement as defined by section 18-38.~~

- ~~(c) Where property within the development may be accessible to the public and/or to residents of the development as a common area, park area or nature trail, the developer shall erect and maintain signage on the property indicating such areas. The signage shall be at such locations approved by the city forester, and shall remain in place until all lots or units adjacent to such areas are constructed upon.~~
- ~~(d) The information required to be posted pursuant to this section shall be contained on a display no smaller than thirty inches by thirty-six inches (30" x 36"), and be entitled "CITY OF NOVI HOMEOWNER DISCLOSURE" in letters no less than three-quarters (¾) inch high. The display shall include the telephone number of the City of Novi Department of Community Development.~~

~~Sec. 18-40. -- Acknowledgment of disclosure.~~

~~The disclosure statement shall be signed by both the seller or an agent of the seller and the purchaser. The purchaser's signature shall be preceded by words, printed in eighteen-point type, "The undersigned hereby acknowledge(s) that (he/she/they) have been provided with and have retained a copy of this Disclosure Statement." The disclosure statement shall also be signed by a witness to the signature of the parties. All parties shall be provided with copies of the signed disclosure statement.~~

~~Sec. 18-41. -- Acknowledgment as evidence of compliance.~~

~~It shall be prima facie evidence of compliance with sections 18-37 and 18-38 for the seller to submit to the Department of Building and Safety an acknowledgment executed by the purchaser of a newly constructed single-family residence, containing the following language: "The undersigned purchaser(s) hereby acknowledge(s) that (he/she/they) (has/have) been informed of the requirements and provided a copy of Chapter 18, Article III of the Novi Code of Ordinances (Disclosure Requirements for Sale of New Single-Family Residences) and have been provided a disclosure statement pursuant to that Article." The acknowledgment of disclosure shall also be signed by a witness to the signature of the parties.~~

~~Sec. 18-42. -- Cancellation of purchase agreement.~~

- ~~(a) Except as provided in section 18-41, a purchaser of a newly constructed single-family residence has the right to cancel a purchase agreement, without penalty, until midnight of the seventh day after the day on which the purchase agreement is executed. Cancellation occurs when the buyer mails or delivers a notice of cancellation to the seller at the address stated in the purchase agreement. A notice of cancellation, if mailed to the seller, is given when it is deposited in a mailbox properly addressed with postage prepaid. A postmark shall be prima facie evidence of the date of mailing. A notice of cancellation given by the purchaser, other than the notice of cancellation made a part of the purchase agreement pursuant to subsection (c) of this section, need not take a particular form and is sufficient if it indicates by any form of written expression the buyer's intention not to be bound by the purchase agreement.~~
- ~~(b) Except as provided in section 18-41, a purchase agreement for the sale of a newly constructed single-family residence shall contain a statement as follows in immediate proximity to the space reserved for the purchaser's signature:~~

~~"You, the purchaser, may cancel this purchase agreement at any time prior to midnight of the seventh day after the date on which this agreement is executed. See the attached notice of cancellation."~~

~~(c) Except as provided in section 18-41, the buyer's copy of a purchase agreement for the sale of a newly constructed single-family residence shall have attached to it duplicate copies of a notice of cancellation as follows:~~

~~"Notice of Cancellation"~~

~~_____~~

~~(Date of Execution of Purchase Agreement)~~

~~"You may cancel this purchase agreement, without penalty or other obligation, within seven days from the above date."~~

~~"If you cancel, any payments or other deposits made by you, and any negotiable instrument executed by you relative to the purchase agreement will be returned within ten business days following receipt of your cancellation notice, and any security interest arising out of the transaction will be canceled."~~

~~"To cancel the purchase agreement, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to (name of seller), at (address of seller's place of business) not later than midnight on (date)."~~

~~"I hereby cancel this purchase agreement."~~

~~"_____~~

~~_____~~

~~(Date)~~

~~(Purchaser's Signature)"~~

~~(d) To the extent any statute or other law requires a longer period of time for cancellation of a sale of a newly constructed single-family residence, such longer period of time shall apply.~~

~~Secs. 18-43—18-55. —Reserved.~~

PART II. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III. Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PART V. Effective Date. The provisions of this Ordinance are ordered to take effect following publication in the manner prescribed by the Charter of the City of Novi.

PART VI. Adoption. This ordinance is hereby declared to have been adopted by the Novi City Council in a meeting thereof duly held and called on the ___ day of _____, 2017, in order to be given publication in the manner prescribed by the Charter of the City of Novi.

Moved by _____ and supported by _____.

Robert J. Gatt, Mayor

Cortney Hanson, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the ___ day of _____, 2017.

Cortney Hanson, City Clerk