

ORDINANCE NO. 7-600

AN ORDINANCE TO REQUIRE THE INSPECTION OF NEW OR REHABILITATED
RESIDENTIAL FACILITIES PRIOR TO SALE

THE CITY OF ISHPEMING ORDAINS:

Preamble.

The City of Ishpeming has long recognized the need for new and rehabilitated residential development in the City. Support for such efforts are included in the City's Master Plan, and the 2007 City of Ishpeming Short and Long Term Goals and Objectives. Each of these documents emphasizes the correlation between housing and the vibrancy and stability of the City. As a tool to encourage the rehabilitation of existing housing units (defined as a "rehabilitated facility" below) and the creation of new housing units, the City has established one or more neighborhood enterprise zone (NEZ) districts in accordance with P.A. 147 of 1992 [M.C.L.A. §207.771, et. seq.] [the Neighborhood Enterprise Zone Act ("NEZ Act" herein)]. A requirement of the NEZ Act is that new or rehabilitated facilities created under the NEZ Act meet minimum standards established by the City prior to their being sold. This Ordinance establishes those minimum standards.

Section 1. Definitions.

As used in this Ordinance, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

- (a) "Code Enforcement Officer" means the person appointed to that position by the Ishpeming City Manager, who is responsible for the administration of the building inspection program, including scheduling of appointments, inspections, re-inspections, and record keeping. References to the building official or the building official's office are interchangeable with the term "Code Enforcement Officer".
- (b) "Certificate of approval" means the official document issued by the Code Enforcement Officer stating that a new or rehabilitated facility with an active NEZ certificate is in compliance with the minimum applicable codes adopted and enforced by the City.
- (c) "Neighborhood enterprise zone (NEZ)" means any zone designated by City Council resolution as an NEZ pursuant to the requirements of the NEZ Act.
- (d) "Neighborhood enterprise zone Act or NEZ Act" means Public Act 147 of 1992, as amended.
- (e) "Neighborhood enterprise zone (NEZ) certificate" means a certificate as defined and issued pursuant to the NEZ Act.

- (f) "New facility" means a new structure or portion of a new structure that has as its primary purpose residential housing consisting of one or two units, one of which will be occupied by an owner as his or her principal residence, and as further defined and qualified in Section 2(g) of the NEZ Act. New facility does not include apartments.
- (g) "Owner" means the individual(s), company, corporation, or governmental or private agency listed on the recorded deed or purchaser under a recorded land contract as the owner of a property containing a new or rehabilitated facility for which an active NEZ certificate is being applied for or is issued.
- (h) "Rehabilitated facility" means an existing structure or a portion of an existing structure with a current true cash value of \$80,000.00 or less per unit that has or will have as its primary purpose residential housing consisting of one to eight units, and as further defined and qualified in Section 2(k) of the NEZ Act.
- (i) "International Property Maintenance Code" means the International Property Maintenance Code, January 2006 Edition, and as amended thereafter, which is hereby adopted by the City of Ishpeming.

Section 2. Mandatory Inspection of NEZ Facilities Prior to Sale.

Prior to the sale of any new facility or rehabilitated facility located within an NEZ and holding an active NEZ certificate, such facility shall be inspected by the Code Enforcement Officer to ensure compliance with the following applicable codes:

- (1) Unoccupied new facilities for which a certificate of occupancy has been issued shall be in compliance with the residential building code adopted by the County of Marquette.
- (2) Occupied new facilities, or unoccupied new facilities with a certificate of occupancy older than six months, shall be in compliance with the International Property Maintenance Code.
- (3) Rehabilitated facilities shall be in compliance with the residential building code adopted by the County of Marquette or the International Property Maintenance Code, whichever has the stricter requirements.
- (4) All facilities that are rentals, in addition to the requirements above, must also have a valid certificate of compliance under City Ordinance No. 7-500, an ordinance requiring the inspection of residential rental dwelling units.

Section 3. Inspection Procedure.

- (a) Prior to the sale of a new facility or a rehabilitated facility holding an active NEZ certificate, the property owner shall schedule an inspection of the facility with the Code Enforcement Officer.

- (b) The Code Enforcement Officer shall inspect the facility to ensure compliance with the applicable code(s). If the facility passes the inspection, a certificate of approval shall be provided to the property owner with a copy retained by the City. In the event violations are found, all necessary corrective measures must be completed and approved by the Code Enforcement Officer prior to sale of the facility.
- (c) A certificate of approval shall only be valid for one sale of a new or rehabilitated facility. A new inspection and certificate of approval shall be required each time such a facility is sold.
- (d) A sale of a new facility or a rehabilitated facility or one or more condominium units in a rehabilitated facility may not be finalized or completed until a certificate of approval has been issued by the Code Enforcement Officer pursuant to the terms of this Ordinance.

Section 4. Appeal Process.

- (a) A property owner disagreeing with a decision of the Code Enforcement Officer relative to the existence of a violation or the time frame in which to make corrections may appeal that decision to the Housing Appeals Board. The Housing Appeals Board is hereby designated to hear such appeals.
- (b) The Housing Appeals Board shall consist of three members, appointed by the Ishpeming City Council. Each member of the Housing Appeals Board shall serve for a period of three years.
- (c) To take an appeal from the decision of the Code Enforcement Officer, a property owner shall file with the City Clerk a written appeal on a form provided by the Code Enforcement Officer, and pay the appeal fee, within ten days after receipt of a notice of violation. The City Clerk, upon receipt of an appeal, shall immediately deliver a copy thereof to the Code Enforcement Officer and to each member of the Housing Appeals Board.
- (d) The Housing Appeals Board shall convene and hold a public hearing on the appeal within 20 days after the appeal is filed with the City Clerk, with written notice served on the Code Enforcement Officer and the appealing party of the date, time, and location of the hearing. The Board shall hear testimony and take evidence from the appealing party, the Code Enforcement Officer, and any other witnesses that may be called, and shall, by majority vote, render a decision on the appeal. The decision shall be based upon competent, material, and substantial evidence on the whole record. In making a decision, the Housing Appeals Board shall not be bound by the strict rules of evidence, and may take into account matters that would be relied on by reasonable prudent persons in the conduct of their affairs. The decision of the Housing Appeals Board shall be final, shall be in writing, and shall be made within seven days after the hearing is concluded.

- (e) This appeal process shall supercede any appeal provisions in any code under which the violation was written.
- (f) Every party appearing before the Housing Appeals Board may be represented by an attorney.
- (g) An appeal shall be based on a claim that the true intent of the applicable code or the rules legally adopted thereunder, or the terms of this Ordinance, have been incorrectly interpreted, do not apply, or that the requirements of the building code have been satisfied.

Section 5. Failure to Comply.

In the event a property owner fails to obtain the necessary inspections and approvals prior to the sale of a new or rehabilitated facility unit holding an active NEZ certificate, the City shall immediately begin the process of revoking the certificate.

Section 6. Fees.

- (a) Fees for NEZ mandated inspections, missed appointments, re-inspections, late fees, and appeals shall be as follows:

Pre-sale Inspection	\$60.00/unit	(includes one follow-up inspection)
Re-inspections	\$70.00/unit	(all re-inspections after first follow up inspection)
Missed Appointments	\$70.00/unit	(to be paid prior to inspection)
Late Payment Fee	\$25.00/month	
Appeals	\$25.00*	

*The Housing Appeals Board may direct that a fee paid by a property owner be refunded if it determines that an avoidable mistake was made by the City.

- (b) All fees shall be paid at the office of the Code Enforcement Officer prior to inspections being performed. Fees remaining unpaid more than ten days after due shall be charged an additional late fee and all accumulative charges may be added to the tax rolls relative to the property(s), and such charges shall become a lien and enforced against the property in the same manner as the collection of real property taxes assessed against the premises, until such charges are paid.

Section 7. Limitation of the Provisions of This Ordinance.

This Ordinance shall not apply to any "homestead facility" as that term is defined in Section 2 (e) of the NEZ Act. The owner of a "homestead facility" (as defined in the NEZ Act) shall not be entitled to apply for or to receive a neighborhood enterprise zone certificate under this Ordinance.

Section 8. Penalty.

Failure or refusal to have a new facility or a rehabilitated facility inspected in accordance with this Ordinance, or failure to comply with any provision of this Ordinance, the applicable code, or any notice or order given pursuant thereto, shall constitute a misdemeanor, which upon conviction may result in a fine of up to \$500.00 per violation, plus costs of prosecution, and/or imprisonment for up to 90 days in the Marquette County Jail, or both, in the discretion of the Court.

Adopted: February 6, 2008