

Chapter 15.32

REPORT OF RESIDENTIAL BUILDING RECORDS

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15.32.010 Intent. Pursuant to Article 6.5 (commencing with Section 38780), Chapter 10, Part 2, Division 3, Title 4 of the Government Code of the state of California, it is the intent of the council to assure that the grantee of a residential building within the town is furnished a report of matters of town record pertaining to the authorized use, occupancy and zoning classification of real property prior to sale or exchange. It is the further intent to protect the unwary buyer of residential property against undisclosed restrictions on the use of the property. (Ord. 310 §1(part), 1970).

15.32.020 Definitions. (a) "Owner" means any person, copartnership, association, corporation or fiduciary having legal or equitable title or any interest in any real property.

(b) "Residential building" means any improved real property designed or permitted to be used for dwelling purposes, situated in the town and includes the building or structures located on the improved real property.

(c) "Agreement of sale" means any agreement or written instrument which provides that title to any property shall thereafter be transferred from one owner to another owner. (Ord. 310 §1(part), 1970).

15.32.030 Report required. Prior to listing any residential building within the town for sale or exchange, the owner shall obtain from the town a report of the residential building record showing the regularly authorized use, occupancy and zoning classification of such property. If there is no listing, the owner shall obtain from the town a report of the residential building record prior to entering into an agreement of sale or exchange of any residential building within the town. This report shall be valid for a period not to exceed six months from date of issuance. (Ord. 569 (part), 2002; Ord. 556 (part), 2001; Ord. 310 §1 (part), 1970).

15.32.040 Application. Upon application of the owner and payment to the town of a fee established by resolution of the council, the building inspector and fire official shall review pertinent town records and inspect the premises in question. Upon completion of the review and inspection, they shall deliver a report to the buyer which shall contain at least the following information.

- (a) The street address or other appropriate description of subject property;
- (b) A statement of the zoning classification applicable to the property in question, together with a summary of the uses permitted within the particular zoning classification;
- (c) A statement of the variances and use permits, if any, granted to that property, together with the conditions and restrictions of such permits;
- (d) A statement as to whether any construction, electrical, plumbing or comfort heating building permits have been issued for work not yet completed on the premises, and a statement as to whether there appears to be any nonconformity as to such matters;
- (e) A statement as to whether there appears to be any nonconformity or illegality in the structures on the property or the uses being made thereof.
- (f) A statement as to whether there are any conditions related to site conditions on or within the right-of-way which are the responsibility of the property owner to address including, but not limited to, drainage improvements, roadway improvements, sidewalk condition, weed control, trees or landscaping.
- (g) A statement by the fire official as to whether the buildings are properly equipped with smoke detectors, fire alarms, sprinkler systems or emergency key access, and whether any fire hazards exist on the premises.
- (h) A statement by the fire official as to whether there exist properly maintained defensible spaces around each building and structure as provided for in Section 12.12.016. (Ord. 611 (part), 2008).

15.32.050 Delivery of report. The report of residential building record shall be delivered by the owner to the buyer or transferee of the residential building prior to the consummation of the sale or exchange. The buyer or transferee shall execute a receipt therefor as furnished by the town and this receipt shall be delivered by the owner to the town, as evidence of compliance with the provisions of this chapter. (Ord. 350 §1(part), 1975; (Ord. 310 §1(part), 1970).

15.32.060 Extension endorsement. Upon request of the owner prior to the expiration of the six-month period referred to in Section 15.32.030, the town may issue an endorsement to this report, showing any changes to the information shown on the original report. There shall be no fee for the issuance of the endorsement. (Ord. 350 §1(part), 1975; Ord. 310 §1(part), 1970).

15.32.070 Exceptions. The provisions of this chapter shall not apply to the first sale of a residential building located in a subdivision whose map has been approved and recorded in accordance with the subdivision map act not more than two years prior to the first sale, nor shall they apply to a transfer between husband and wife, nor to a transfer on death to an heir. (Ord. 365 §2, 1976; Ord. 310 §1(part), 1970).

15.32.080 Penalties. (a) Anyone violating any provision of this chapter shall be subject to the penalties provided in Chapter 1.04 of this code.

(b) When any provision of this chapter has been violated upon a sale or exchange of residential property, no building permit shall thereafter be issued for the erection, constructions, reconstruction, repair, alteration or remodeling of any building or structure on such property until the provisions of this chapter have been met.

(c) No sale or exchange of residential property shall be invalidated solely because of the failure of any person to comply with any provisions of this chapter until such failure is an act or omission which would be a valid ground for rescission of such sale or exchange in the absence of this chapter. (Ord. 360 §1, 1975; Ord. 310 §1(part), 1970).

15.32.085 Failure to comply with timelines. The following penalties shall be imposed if any property owner fails to comply with the requirements of Section 15.32.030:

(a) Any property owner requesting a report of residential building record more than one week after listing a residential building or entering into an agreement of sale or exchange, shall be assessed two times the established fee for this report.

(b) Any property owner requesting a report of residential building record more than three weeks after listing a residential building or entering into an agreement of sales or exchange, shall be assessed a one thousand dollar a day penalty for each day that the owner has violated the requirements of Section 15.32.030, up to a maximum penalty of one hundred thousand dollars. This penalty shall apply regardless of whether the property is withdrawn from the "for sale" market, sold or not sold.

(c) A property owner shall be notified in writing of the amount of any penalty imposed pursuant to this section. A penalty imposed pursuant to this section may be appealed to the town council on the grounds that the owner was unable to comply with the time requirements for reasons beyond the control of the applicant and/or his representatives. For purposes of this section, "reasons beyond the control of the applicant and/or his representatives" shall include, but not limited to, acts of war or terrorism and natural disasters.

(d) An appeal shall be filed in writing with the town clerk within ten calendar days from the date of service of notice of the penalty, with payment of an appeal fee as established by town council resolution. The town council shall hold a hearing on the appeal and shall affirm or modify the penalty.

(e) Unpaid compensation due to the town by a property owner as a result of violation of the provisions of this chapter shall become a lien against the property offered for sale, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment. (Ord. 611 (part), 2008; Ord. 569(part), 2002).

15.32.090 Nonliability of town. Neither the enactment of this chapter nor the preparation and delivery of any report required hereunder shall impose any liability upon the town for any errors or omissions contained in the report, nor shall the town bear any liability not otherwise imposed by law. (Ord. 310 §1(part), 1970).

15.32.100 Enforcement. The building inspector is authorized and directed to enforce all the provisions of this chapter. (Ord. 365 §3, 1976).