

# CITY OF CLAYTON, OHIO

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## RESOLUTIONS AND ORDINANCES

November 18, 2010

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### ORDINANCE NO. O – 11 - 10 - 13

#### AN ORDINANCE ENACTING A NEW CLAYTON CODIFIED ORDINANCE SECTION 1337, ENTITLED, “PRE-SALE INSPECTION AND CERTIFICATE OF OCCUPANCY”

**WHEREAS**, staff has reviewed the Clayton Codified Ordinances and recommends amendment of Part Thirteen (Building Code), Title Three (Building Standards) thereof, to include a new Section 1337 entitled, “*Pre-Sale Inspection And Certificate Of Occupancy*” in order to improve the aesthetics of the City by encouraging compliance with the exterior property maintenance code, to ensure that all single and multi family dwellings in the City conform to the City standards prior to sale, rental or lease, and to better protect the health, safety and welfare of the citizens of Clayton; and

**WHEREAS**, Council desires to amend Part Thirteen (Building Code), Title Three (Building Standards) of the Clayton Codified Ordinances to include a new Section 1337 entitled, “*Pre-Sale Inspection And Certificate Of Occupancy*” in order to improve the aesthetics of the City by encouraging compliance with the exterior property maintenance code, to ensure that all single and multi family dwellings in the City conform to the City standards prior to sale, rental or lease, and to better protect the health, safety and welfare of the citizens of Clayton.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That Part Thirteen (Building Code), Title Three (Building Standards) of the Clayton Codified Ordinances are hereby amended to include a new Section 1337 entitled, “*Pre-Sale Inspection And Certificate Of Occupancy*” as follows:

#### **1337.01 Pre-Sale Inspection And Certificate Of Occupancy Required**

- (a) **It shall be unlawful for the owner of any real estate premises to sell, transfer, rent or lease a property without having obtained a pre-sale exterior inspection of it under this chapter. A pre-sale exterior inspection shall also be conducted upon an occupancy change, but in no case more than once during any twelve (12) month period. This inspection will enable the code official to work toward accomplishing the purposes of this chapter by identifying any repairs or other work necessary to eliminate any unsafe or hazardous conditions, to comply with applicable requirements of the Zoning Code, Property Maintenance Code, and other ordinances of the City of Clayton, and also to correct any unlawful nuisance conditions in the form of violations of the Property Maintenance Code. Such inspection and list of violations shall be part of the process of issuing the required certificate of occupancy. No person shall sell or receive a commission or fee from the sale, rental or lease of any real property in this City without a valid certificate issued hereunder.**

Apartment complexes of more than four (4) units shall be exempt from the requirements of this chapter.

(b) Application for a pre-sale inspection shall be made on such forms and in such manner as may be prescribed from time to time by the code official. The current forms in use by the City are appended to this Chapter as Exhibit A and include the following: Pre-Sale Home And Rental Occupancy Inspection Program Summary Sheet; Transfer of Responsibility Agreement; Application For Pre-Sale Occupancy Inspection; Pre-Sale Occupancy Inspection Report; Pre-Sale Occupancy Inspection Check List; and Pre-Sale Occupancy Inspection Fees List. In the event there is conflicting information in the forms attached as Exhibit A and the provisions of this Chapter, the provisions of this Chapter shall govern.

(c) Results of the Inspection:

i. Within five (5) working days of receipt by the code official of an application for a pre-sale inspection and payment of the required fee, the code official or other designated City representative, will contact the property owner to schedule the inspection. This period of time may be extended by the code official if a delay is caused by any matter beyond the reasonable control of the official. The code official will inspect the entire exterior of the property, including but not limited to, all structures, fencing, stairways, pools and vegetation.

ii. If violations are found during the inspection, no certificate of occupancy shall be issued until the listed violations are corrected or the property is otherwise brought into compliance with the City Zoning and Property Maintenance Codes. A letter itemizing the violations together with a Transfer of Responsibility Agreement form shall be sent to the owner or his or her representative. A prospective owner may assume responsibility for correction of the noted violations by completing the Transfer of Responsibility Agreement. A conditional certificate of occupancy will be issued within five (5) working days of receipt of the Transfer of Responsibility Agreement. A certificate of occupancy will be issued upon correction of the violations and final approval by the City.

Responsibility for correcting rental property violations cannot be transferred to a tenant.

iii. Within two (2) working days of completing a satisfactory inspection, the code official will issue a certificate of occupancy. This period of time may be extended by the code official if a delay is caused by any matter beyond the reasonable control of the official.

In the case of a rental property involving a change of tenant, the certificate of occupancy shall be issued to the owner in the name of both the owner and the new occupant.

**(d) Certificate of Occupancy:**

- i. A certificate of occupancy (other than a conditional certificate of occupancy issued under Section 1337.01(c)(ii)) shall be valid for 12 months from the date of issuance.**
- ii. A certificate of occupancy signed by the code official shall be evidence that the premises comply with the requirements of this chapter and all other applicable ordinances of the City of Clayton. But, pre-sale inspections by the City will not necessarily relate to adequacy of construction or soundness of structure and do not replace the need for a whole house inspection by a professional home inspector.**

**1337.02 Responsibility For Correcting Defective Items**

- (a) The responsibility for making repairs or completing such work as may be necessary to correct any defective aspects of the premises shall rest upon the person who was the owner immediately prior to the inspection.**
- (b) It is the current property owner's responsibility to have the violations corrected unless the new owner is willing to formally assume such responsibility by signing the Transfer of Responsibility Agreement provided. A copy of this Transfer of Responsibility Agreement must be provided to the City of Clayton. If the responsibility is assumed by the new owner, he or she will be obligated to repair or correct all of the violations noted by the City of Clayton inspector in the time determined by the City of Clayton inspector. Failure to comply will result in a late filing fee of \$100 and/or the City taking legal action to compel compliance.**

**1337.03 Unpaid Charges To Be Paid Immediately As Condition Of Certificate Of Occupancy**

**To obtain a certificate of occupancy, all unpaid charges owed to the City of Clayton related to the property (other than those assessments that have become liens as a result of legislative action by the City of Clayton) must be paid in full.**

**1337.04 Certificate Of Occupancy Required For New Owner**

**It shall be unlawful for any person who acquires legal or equitable title to a premises (after the date this chapter is adopted) to occupy or use it without having obtained from the code official or the previous owner a valid certificate of occupancy for that premises.**

**1337.05 Disclosure Of Violations To New Owner**

**It shall be unlawful for the owner of any property upon whom a notice of violation has been served (in form of a list of defects or violations noted by the code official) to transfer legal or equitable ownership of the property to another until the defects and violations listed in that notice have been corrected or Transfer of Responsibility Agreement has been executed by the buyer and the seller.**

### **1337.06 Fees For Inspection And Certificates Of Occupancy**

**Fees to be charged for pre-sale inspections and follow-up inspections for the issuance of certificates of occupancy shall be as follows:**

**The fee for one, two and three family dwellings, for which a certificate of occupancy is required, shall be Fifty Dollars (\$50) per principal structure. If the dwelling fails to meet the zoning and property maintenance standards at the first inspection, a follow-up inspection will be included in the initial Fifty Dollar (\$50) fee charged. For any subsequent inspections, the fee shall be One Hundred and Fifty Dollars (\$150) per principal structure.**

**The fee for four or more family dwellings, for which a certificate of occupancy is required, shall be the greater of either One Hundred Dollars (\$100) per principal structure or Twenty Five Dollars (\$25) per dwelling unit. If a dwelling fails to meet the zoning and property maintenance standards at the first inspection, a follow-up inspection will be included in the initial fee charged. For any subsequent inspections, the fee shall be Two Hundred and Fifty Dollars (\$250) per dwelling unit requiring re-inspection.**

### **1337.07 Appeals**

**If the owner objects to the violations identified by the code official or the fees charged, an appeal may be made to the City Manager in writing no later than five (5) working days after receipt by the owner of notification of the violations identified. The City Manager shall issue his determination in writing no later than five (5) working days of his receipt of the appeal. These periods of time may be extended by the City Manager if a delay is caused by any matter beyond the reasonable control of the code official or City Manager.**

### **1337.99 Penalty**

- (a) Violations. Whoever violates this chapter is guilty of violating the pre-sale inspection and certificate of occupancy ordinance of the City of Clayton, a misdemeanor of the fourth degree.**
- (b) Continuing Violations. Each violation of a section of this chapter shall constitute a separate and distinct violation independent of any other section or subsection, or of any order issued pursuant to this chapter. Each day's failure to comply with any such section or subsection, or order, shall constitute a separate violation.**

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2. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.

3. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on November 4, 2010 and November 18, 2010.

4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

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ADOPTED BY COUNCIL ON NOVEMBER 18, 2010

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