

ORDINANCE NO. 2019-65

INTRODUCED BY: MAYOR MICHAEL DYLAN BRENNAN

AN ORDINANCE ENACTING CODIFIED ORDINANCE CHAPTER 1488 OF THE HOUSING CODE ENTITLED "POINT OF SALE INSPECTION" AND REPEALING CHAPTER 1474.10, CHAPTER 1474.11, AND CHAPTER 1424.09(a)(1) and 1424.09(a)(2).

WHEREAS, the City wishes to update its Housing Code related to point of sale inspections and the department responsible for administering those inspections;

WHEREAS, enactment of Chapter 1488 updates the time for compliance with Point of Sale Inspection corrections to allow University Heights residents selling their homes more time to make corrections and repairs to their homes;

WHEREAS, enactment of Chapter 1488 updates the time for compliance with Point of Sale Inspection corrections to allow University Heights residents selling their homes more time to make corrections and repairs to their homes;

WHEREAS, enactment of Chapter 1488 sets a new fee schedule for the Point of Sale Inspection in order to have the fees to administer the Point of Sale Inspection program approximate the cost to manage the program;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY HEIGHTS, OHIO THAT:

Section 1. Council hereby adopts Codified Ordinance Chapter 1488 entitled "Point of Sale Inspection," in the form attached hereto as Exhibit A, which is incorporated herein by reference as if fully rewritten.

Section 2. Existing Codified Ordinance Chapter 1474.10 entitled "Point of Sale Inspections.", Chapter 1474.11 entitled "Use, Effect and Sanctions Arising from Certificate of Inspection.", and Chapter 1424.09(a)(1) and 1424.09(a)(2) related to the point of sale inspection and reinspection fee are hereby repealed.

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

CITY OF UNIVERSITY HEIGHTS, OHIO



MICHAEL DYLAN BRENNAN, MAYOR

FIRST READING: 10/23/2019

PASSED: 11/4/2019

ATTEST:



KELLY M. THOMAS, CLERK OF COUNCIL

APPROVED AS TO FORM:



LUKE F. MCCONVILLE, LAW DIRECTOR

CHAPTER 1490
Point of Sale Inspections

1490.01	Inspection Required Prior to Transfer.	1490.05	Correction of Violations; Right of Appeal.
1490.02	Application for Certificate of Housing Inspection.	1490.06	Certificate of Housing Inspection or Compliance; Escrow
1490.03	Timing for Inspection and Issuance of Certificate of Housing Inspection.	1490.98	Fees.
1490.04	Content of Certificate of Housing Inspection; Term; Transferability.	1490.99	Penalty.

1490.01 INSPECTION REQUIRED PRIOR TO TRANSFER.

- (a) The owner of any dwelling or land upon which such dwelling is located hereinafter collectively referred to as the “premises”, who enters into an agreement to sell or otherwise convey an interest therein, including, but not limited to, transfer of a premises by land installment contract, shall obtain from the ~~Building Commissioner~~ Housing and Community Development Director a Certificate of Housing Inspection by applying for said Certificate to the Department of Housing and Community Development, and shall present such Certificate or an exact copy thereof to the transferee, including, but not limited to the vendee or grantee or purchaser, of such interest prior to the time of transfer of title thereto and within reasonably sufficient time for any escrow agent or transferee to comply with these provisions.
- (b) In the event the premises described in ~~subsection (a)(1)~~ Section 1490.01(A) ~~above~~ is sold at Sheriff’s Sale or other court-ordered auction, or is transferred from a mortgagor to a mortgagee in lieu of foreclosure, or similar transaction, and no Certification of Compliance has been issued within one year prior to such sale, the purchaser or transferee shall apply in writing to the ~~Building Commissioner~~ Housing and Community Development Director within thirty days after the date of the sale or transfer for said Certificate, and shall otherwise comply with the requirements of this Chapter. The method of Application and inspection is set forth in Sections ~~1474.10~~ 1490.02 and 1490.03.
- (c) This Chapter shall not apply to the individual transfer of any premises through inheritance, or by gift between family members, or between members of the same household, where no bona fide sale or arms length transaction is intended or takes place, or to the sale, transfer, conveyance, or purchase of City-owned or privately-owned premises when the purchaser is an entity that has an agreement with the City under a City program to provide support for the purchase and the rehabilitation of such premises.

1490.02 APPLICATION FOR CERTIFICATE OF HOUSING INSPECTION.

- (a) Application for the Certificate of Housing Inspection shall be made by the owner or an agent or representative of the owner of premises, provided that the authority of such agent or representative is affixed or attached to the application.
- (b) Form of application. The application form shall be prescribed by and be available from the ~~Building Commissioner~~ Department of ~~Housing and Community Development~~ and shall contain the following information:
 - (1) The street address, permanent parcel number, or other characteristics to identify the location of the dwelling;
 - (2) The name, address, phone number, and, e-mail address, if available, of the property owner; and
 - (3) The authorized use and occupancy of the dwelling.
- (c) Consent. If the applicant consents in writing to a housing inspection, the parties shall agree upon a mutually agreeable time when the inspection shall be made during regular business hours of the ~~division of Building Engineering and Inspection~~ Department of ~~Housing and Community Development~~. Nothing herein shall be construed to obligate the applicant to consent to any housing inspection.
- (d) Refusal to consent.
~~Building Commissioner~~ In the event that the owner denies consent to the performance of a housing inspection, then the ~~Housing and Community Development Director~~ shall either promptly issue a Certificate of Housing Inspection or shall promptly procure an administrative search warrant as provided by law to gain entry to the premises to conduct a housing inspection thereof.

1490.03 TIMING FOR INSPECTION AND ISSUANCE OF CERTIFICATE OF HOUSING INSPECTION.

- (a) The completed application described in Section 1490.02(b) hereof, together with the fee required as set forth in ~~Chapter 1424~~ Section 1490.98, shall be submitted to the ~~Building Commissioner~~ ~~Housing and Community Development Director~~ who, within ten (10) ~~Business Days~~ (as such term is hereafter defined in subsection (d) hereof) after receipt thereof, shall, in instances in which the owner has consented thereto, cause an inspection of the premises to be made, or in instances in which the owner has denied consent to a housing inspection, shall either promptly issue a Certificate of Housing Inspection or shall promptly procure an administrative search warrant as provided by law to gain entry to the premises to thereupon conduct a housing inspection thereof ;
- (b) In the event the City files for an administrative search warrant for an inspection of the premises, if the search warrant is granted, the City shall conduct its search warrant within the time periods set forth in the search warrant, but not later than ten (10) Business Days following execution of the search warrant. In the event that the City's application for a search warrant is denied, the City shall promptly issue its Certificate of Housing Inspection.

- (c) Within ten (10) Business Days after such inspection, the ~~Building Commissioner~~ ~~Housing and Community Development Director~~ shall issue a Certificate of Housing Inspection in accordance with ~~division (d)~~ Section 1490.04 hereof.
- (d) For purposes of this Chapter 1490, the term “Business Day” shall mean any day on which the City is open for business, excluding Saturdays, Sundays and legal holidays.

1490.04 CONTENT OF CERTIFICATE OF HOUSING INSPECTION; TERM; TRANSFERABILITY.

- (a) The Certificate of Housing Inspection shall include all of the information referred to in division ~~(b)(2)~~ 1490.02(B) hereof and shall list therewith and order the correction of all known violations of building, housing, and/or zoning codes determined from the inspection, as applicable, as well as such other informational material as may be deemed relevant by the ~~Building Commissioner~~ ~~Housing and Community Development Director~~.
- (b) The date of issuance of the Certificate of Housing Inspection shall be not less than 30 days prior to any transfer of an interest in the premises, unless a shorter period is approved by the ~~Building Commissioner~~ ~~Housing and Community Development Director~~.
- (c) The Certificate of Housing Inspection shall be valid for a period of one year from the date of ~~issuance~~ the initial inspection.
- (d) The Certificate of Housing Inspection shall remain valid for a period of one year from the date of issuance, and shall remain in full force and effect in connection with any transfers of the premises that occur during the unexpired period.
- (e) No transfer of title to any premises shall occur prior to (i) the issuance of a Certificate of Housing Inspection, and (ii) either correction of all violations set forth in the Certificate of Housing Inspection or the deposit of funds in escrow in compliance with section 1490.06 hereof.

1490.05 CORRECTIONS; RIGHT OF APPEAL.

- (a) All violations shall be corrected within ~~ninety 30~~ (90) calendar days of the issuance of the Certificate of Housing Inspection as required therein, except as any extension may be granted for cause by the ~~Building Commissioner~~ ~~Housing and Community Development Director~~.
- (b) If the transferor does not correct the violations contained in the Certificate of Housing Inspection prior to transfer of title then the purchaser or transferee of the property shall be required to correct the violations contained in the Certificate of Housing Inspection within the time allotted herein or within any extension of time permitted by the ~~Building Commissioner~~ ~~Housing and Community Development Director~~.
- (1) Compliance Documents. A status letter shall be issued by the ~~Building Commissioner~~ ~~Housing and Community Development Director~~ upon a request by or on behalf of the owner, after all or any part of the corrections listed in the Certificate of Housing Inspection have been performed to the satisfaction of the ~~Building Commissioner~~ ~~Housing and Community Development Director~~.

(c) Right of Appeal:

- (1) The Board of Zoning Appeals as established by ordinance, shall be the Board of Appeals for this Chapter and its powers and duties and procedures for appeal shall be as provided in such ordinance establishing the Board.
- (2) The seller or transferor, or the purchaser or transferee of any structure or premises shall have the right to appeal from any order of, or written notice issued by, the Housing and Community Development Director, including, but not limited to, the Certificate of Housing Inspection, within thirty (30) days from the date such notice was given or mailed or order issued and to appear before the Board at a time and place fixed by the Board, to show cause why he or she should not comply with such notice. Such appeal must be in writing. Failure to file a written appeal with the Board within the time prescribed herein shall constitute a waiver of the right to appeal. Except in cases of emergency as set forth in [Section 1474.09](#), filing of an appeal from any such notice or order shall stay action on enforcement of such notice or order during the pendency of such appeal.

1490.06 CERTIFICATE OF HOUSING INSPECTION OR COMPLIANCE; ESCROW.

- (a) ~~No person, agent, firm or corporation shall transfer or convey title to real estate governed herein in a bona fide transfer for a good and valid consideration. No person, agent, firm or corporation shall sell, transfer, convey, accept, obtain, or purchase an interest in the title of improved residential real estate, including entering into a land installment contract for the sale or transfer of such a property, without complying with the point-of-sale requirements of this Chapter, including the establishment of an escrow account as required in this Section.~~
- (b) No business entity, domestic or foreign, using a name other than an individual's own personal name, shall sell, transfer, convey, accept, obtain or purchase an interest in the title of any premises, including entering into a land installment contract for the sale or transfer of such a property or premises, unless such entity is both registered to do business in the State of Ohio with the Ohio Secretary of State as required by Title XVII of the Ohio Revised Code and in good standing with the Ohio Secretary of State, as evidenced by a current and validly issued Certificate of Good Standing.
- (c) The seller or transferor shall deliver to and obtain the signature of the purchaser or transferee and the date of such signature upon a duplicate of the original Certificate of Housing Inspection, which shall be deposited in escrow if there is an escrow.
- (d) Attached thereto shall be a written agreement signed by seller and purchaser identifying the party who will be responsible to correct all violations listed with the Certificate of Housing Inspection and notwithstanding any outstanding or new mortgage indebtedness or lien upon the premises, providing that all necessary funds sufficient to pay for the costs to correct all violations shall be deposited or retained in escrow, which funds may be released ~~totally or partially, as the work progresses,~~ according to the provisions of this Subsection upon the authority of the ~~Division of Building Engineering and Inspection~~ Department of Housing and

- Community Development in compliance with provisions set forth in this Section. ~~so long as funds are retained to complete unfinished work. In lieu of such funds, a payment bond may be approved by the Director of Law.~~
- (e) Prior to the closing of a transfer of any premises or improved residential real estate, the purchaser or transferee shall (i) have applied for and received a current Certificate of Housing Inspection or a certificate of compliance, (ii) shall have designated in writing with the Department of Housing and Community Development the name, address, and telephone number of an agent who is a resident of Cuyahoga County, pursuant to Section 1474.03, and shall (iii) provide written or documentary proof that sufficient funds have been deposited in escrow as required in this Section.
- (1) Setting Escrow Amount: Except as otherwise provided in this Chapter, if all violations listed on the Certificate of Housing Inspection are not corrected prior to transfer of title or execution and recording of a land installment contract, the seller/transferee or purchaser/transferee shall deposit in escrow an amount determined and certified by the Housing and Community Development Director to be sufficient to cover the estimated cost of all necessary repairs. The amount deposited in escrow shall be determined by the Housing and Community Development Director, in the Director's sole discretion, after consideration of any cost estimates provided to the Director by the parties, as hereafter set forth.
- A. The seller/transferee or purchaser/transferee may provide a written estimate from a qualified company for correction of the violations found in the Certificate of Housing Inspection. The written estimate shall be in good faith and shall reflect current market rates for labor and materials, and the written estimate shall be itemized, to the extent practicable, in a manner that correlates to the violations listed in the Certificate of Housing Inspection. The Director or the Director's designee shall determine whether the estimate complies with the requirements of this Section and may reject an estimate that fails to reasonably reflect the fair market cost of repairs; if an estimate is rejected, the Director may send a written notice of such rejection to the party establishing the escrow and may establish the amount required to be deposited. Any such Notice may be appealed to the Board of Zoning Appeals. The party submitting the estimate may provide the Director a new estimate that complies with the requirements of this Section for the Director's further consideration.
- (2) Release of Escrow Funds: Funds shall be disbursed from escrow by the escrow agent only upon written authorization from the Housing and Community Development Director or his designee. Authorization to release funds held in escrow pursuant to this Subsection shall be granted upon the determination that violations have been corrected or remediated and that sufficient funds will remain in escrow to correct all remaining violations.
- A. If the funds held in escrow are less than five thousand dollars (\$5,000), no funds held in escrow shall be released until all violations are corrected.

- B. If the funds held in escrow exceed five thousand dollars (\$5,000) but are less than twenty thousand dollars (\$20,000), the Director or the Director's designee may authorize one partial release of funds from escrow upon application, in an amount not to exceed the lesser of (i) the actual amount of expenditures made on repairs to correct violations or (ii) the amount which, when subtracted from the funds held in escrow, would leave a sum sufficient to correct all remaining violations.
 - C. If the funds held in escrow are equal to or exceed twenty thousand dollars (\$20,000) but are less than forty thousand dollars (\$40,000), the Director or the Director's designee may authorize two partial releases of funds from escrow upon application, in an amount not to exceed the lesser of (i) the actual amount of expenditures made on repairs to correct violations or (ii) the amount which, when subtracted from the funds held in escrow, would leave a sum sufficient to correct all remaining violations.
 - D. If the funds held in escrow are equal to or exceed forty thousand dollars (\$40,000) but are less than sixty thousand dollars (\$60,000), the Director or the Director's designee may authorize three partial releases of funds from escrow upon application, in an amount not to exceed the lesser of (i) the actual amount of expenditures made on repairs to correct violations or (ii) the amount which, when subtracted from the funds held in escrow, would leave a sum sufficient to correct all remaining violations.
 - E. If the funds held in escrow are equal to or exceed sixty thousand dollars (\$60,000), the Director or the Director's designee may authorize four partial releases of funds from escrow upon application, in an amount not to exceed the lesser of (i) the actual amount of expenditures made on repairs to correct violations or (ii) the amount which, when subtracted from the funds held in escrow, would leave a sum sufficient to correct all remaining violations.
- (a) A copy of such acknowledged receipt of the Certificate of Housing Inspection and the agreement required above shall be provided to the ~~Division of Building Engineering and Inspection~~ Department of Housing and Community Development as a condition of transfer of title.
 - (b) The escrow requirements of this Section shall not apply to County Land Reutilization Corporations, as organized under Chapter 1724 of the Ohio Revised Code, when the County Land Reutilization Corporation is a purchaser of property in the City.
 - (c) No escrow or bond shall be required if the City is the purchaser or transferee of the premises, whether the premises is intended to be repaired or demolished.
 - (d) If all repairs to a premises required on a Certificate of Housing Inspection are not completed within a reasonable period of time, as determined by the Director or the Director's designee, the City may withdraw such funds from the escrow account as shall be necessary to pay for the completion of the repairs or demolition of the property, as the City determines to be necessary. The City shall provide written notice to the owner and any lessee or party in control of a property, and to the party that established the escrow, at least thirty (30) days

prior to the City's withdrawal of funds from the escrow account. In no case will the City withdraw any funds from escrow pursuant to this section prior to the expiration of the Certificate of Housing Inspection.

1490.98 FEES.

(a) Payment of Fee:

- (1) Each application for a Certificate of Housing Inspection shall be accompanied by a nonrefundable inspection fee in accordance with the following schedule:

Single-family dwelling	\$150 \$250
Two-family dwelling	\$200 \$300

- (2) There shall be no charge for any reinspection requested by the same owner within one year of the issuance of the Certificate of Housing Inspection.

1474.99 PENALTY.

Unless otherwise specifically provided, whoever violates any provision of this Housing Code or any rule or regulation promulgated thereunder, or fails to comply therewith, or with any written notice or written order issued thereunder, and whoever interferes with, obstructs or hinders the ~~Building Commissioner~~ **Housing and Community Development Director** while he or she is attempting to make an inspection, except as provided in Section ~~1474.02~~ **1490.02**, is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.