

MINUTES OF THE HOUSING COMMITTEE
January 28, 2019
East Conference Room

Present: Councilmembers Anderson, O'Malley, & Rader

Also Present: Councilmembers Bullock, George, & O'Leary; Assistant Law Director Jen Swallow, Assistant Building Commissioner Joe Meyers, Planning Director Bryce Slyvester, Clerk Maureen McHugh Bach

Call to Order: 7:05 p.m.

ORDINANCE 39-18 - AN ORDINANCE amending various sections of Chapter 1306, Property Maintenance and Safety Code, of the Codified Ordinances of the City of Lakewood in order to update the code so as to eliminate the threat of warrantless searches from the Code.

Assistant Director Swallow gave a brief overview of the revised version of the ordinance, with the main points being that a certificate of occupancy language was changed to a certificate of code compliance, essentially restoring point of sale inspections into the ordinance.

Council President O'Leary pointed out that the old ordinance had the point of sale component in it, but a property owner could refuse inspection, in which instance the Building Department would have to pursue a warrant to enter the property.

Councilman Anderson stated that point of sale inspections largely occur after a transfer of property and are more post-point of sale inspections. Assistant Director Swallow clarified that the point of sale inspection is supposed to be initiated by the seller of property as part of the sales process and prior to the transfer of property.

Councilman O'Malley added that most realtors should be familiar with the point of sale process and should be aware of the timeline of when it should be completed.

Council President O'Leary stated that in his work as an attorney working with municipalities he has found that realtors are pushing back on the point of sale ordinances by cities because they believe them to be unconstitutional.

Councilman O'Malley shared that Brook Park has killed their point of sale inspection program and he saw positive reaction to it by realtors on social media. He believes the city has an obligation to push the program through with the ordinance within the confines of the constitution. He asked Assistant Building Commissioner Meyers whether the program would resume if Council was to pass Ordinance 39-18. Meyers assured him that the Building Department would get the word out that the program is functioning upon passage; however he emphasized that it is a voluntary program. The Building Department would have to get warrants if the owners refuse entry.

Councilman Anderson asked if the program is still voluntary even in the case of sale of non-owner occupied rental property. Assistant Director Swallow stated that the program only applies to non-owner occupied rental property.

Councilman Bullock inquired about circumstances regarding the owner's right to refusal. Assistant Director Swallow responded stating that an owner can refuse any property inspection and trigger the city's process to require an administrative warrant. The city doesn't have the right to just search someone's property. When the city conducts its property survey, they make a point to conduct it from the sidewalk, as it is a public right of way and there is no infringement of someone's 4th Amendment rights. The city can search property only under an exigent circumstance. Councilman Bullock inquired about whether pigeons flying in and out of a hole in the roof of a property would be an exigent circumstance. Swallow replied that the pigeon example would not be an exigent circumstance, but a building collapsing on itself and creating a public danger would be one.

Councilman Bullock brought up various neighborhood complaints he received over the years and stated that he believe there were items in the health code that allowed searches to be conducted. Swallow agreed with that notion, but stated a search warrant was still required for those circumstances. Inspectors can also just knock on the door and ask to inspect and if someone who appears to have control of the property allows them to, it is considered a legal inspection with no need for a warrant.

Councilman O'Malley asked whether the city could inspect in the event of a fire violation. Swallow responded that an affidavit and search warrant would still be necessary to enter the property. The Law Department often does this with nuisance properties.

Councilman Anderson brought up an example where if he sees construction or excavation going on and knows that there are no permits pulled, what is the process when he notifies the Building Department? Meyers stated that an inspector would go to the property and speak with whoever has control. If the inspector believes there is a cause for concern and the owner refuses to let him/her onto the property, a search warrant would be issued to enable a property inspection. The Building Department really has not had to go to that extent. Meyers and Anderson agreed that people are generally cooperative when they know they have been caught in violation of the code.

Councilman Anderson asked if there's anything stopping the city from adding provisions onto the ordinance regarding point of sale inspections when it comes to properties that have been sold via sheriff sale or a property that has had a vacant license for years. Would those be defensible qualifiers for a point of sale inspection? Swallow responded stating that you could require a seller of a vacant property to complete the point of sale inspection in order to complete the sale.

Councilman Anderson is looking to figure out a way to incentivize folks with long vacant properties to move forward with action on them or at least establish some form of communication with city hall in regards to what their plans are for properties that they purchased via sheriff sale or private auction. Should it be a separate ordinance or can it be included in this ordinance? Swallow asked the Building Department whether it is seeing more code violations with sheriff sale vacant properties than occupied rentals. Meyers stated that there are probably

more with vacant sheriff sale properties. The hope is that whoever is buying it off of sheriff sale is going to make the necessary improvements and make it better than the people who originally bought the property. In many cases that happens and in others, it doesn't. Those cases may be due to a failure in financing, etc.

Councilman Anderson asserted that there used to be a dozen or so sheriff sales a week in Lakewood back in 2007/2008, but now its 1-2 a month. The private market has corrected itself as demonstrated by the amount of permits being pulled. He inquired as to how the Council and administration can create a safety net to make the Council more aware of what's going on with sheriff sale properties, and ultimately ensure that part of the housing stock doesn't fall into disrepair. Meyers stated that the ordinance says that if the property has been a rental one in the last two years it requires an inspection. There are no provisions specifically for vacant properties.

Councilman Rader asked if the Building Department anticipates people taking it up on the program despite it being a voluntary one. Meyers replied that generally people are compliant without having to go through the warrant procedure. The Department approaches the matter on a case by case basis depending on its history/complaints on a house or property. Councilman Rader also asked if there are owner-occupied point of sale options available. Swallow responded that there is an assumption that owner-occupied properties are being taken better care of by their owners since they are living there.

Councilman Bullock asked to review non-owner occupied rental property options in ordinance vs. sheriff sale property options. Swallow and Meyers reviewed the provisions.

Councilman Anderson suggested to include sheriff sale property point of sale inspections specifically into the ordinance.

Councilman Bullock stated that the city should have an update of its policies that drive housing laws and penalties. He is unsure if owner-occupied properties are in better condition all the time. There are a variety of different types of housing clusters in Lakewood.

Council Anderson added that one of the conclusions from Lakewood's housing study was that non-owner occupied rental properties were in slightly nicer exterior condition so as to attract tenants. He also said that regular code inspections tend to find more violations than point of sale inspections based on data from the administration. He asked for a Law Department review of a point of sale requirement for sheriff sale property purchases and recently unoccupied property stipulations being included in the ordinance.

Councilman Anderson reviewed that a 3 family home has to have an annual license from the city, regardless of whether it is owner-occupied or not. Is that considered non-owner occupied rental? Swallow believes that it is considered non-owner occupied rental. She believes the city defaults to the requirements of the housing license. Meyers believes that is correct as well.

Councilman Rader asked that the city look into any legal reason why it could not include a provision for point of sale inspections in regard to sheriff sales. Councilman Bullock added that there may be an acute need for that kind of provision. Both councilmembers and Swallow also

clarified language, such as use of the terms: occupancy, use, and certificate of occupancy vs. certificate of code compliance.

Assistant Director Swallow noted that Meyers stated we need to keep in fees for certificate of occupancy and certificate of code compliance. The ordinance start date was also updated from January 1, 2019 to effective immediately.

Councilman Bullock is glad to see that the discussed changes were made so as to maintain some control over the quality of housing stock and to protect renters.

Councilman Anderson stated that Councilwoman George expressed previously that she was interested in maintain some semblance of a point of sale program. Councilwoman George followed that by stating that she is satisfied with the changes made to the ordinance and believes it is up to par in maintaining the housing stock and protecting renters.

Councilman Anderson said that he believes people should look to city hall as a partner and that city hall adds value when an inspector sees bad construction and notifies the homeowner of it. He stated the Housing Committee will have one more hearing on this ordinance as its still in the draft phase.

Councilman Rader inquired if the city does any lead testing during a point of sale inspection. Swallow and Meyers responded that the city does not, that is the duty of the County Board of Health. The city used to when it had a health department.

Adjourned: 7:43 p.m.

Placed on first reading and referred to Housing Committee 9/4/18, second reading 9/17/18). Please substitute for the original.

ORDINANCE NO. 39-18

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, amending various sections of Chapter 1306, Property Maintenance and Safety Code, and ~~Section 1173.01 Part Eleven, Certificate of Use and Occupancy Required~~ Planning and Zoning Code, of the Codified Ordinances of the City of Lakewood in order to update the code so as to eliminate the threat of warrantless searches from the Code.

WHEREAS, various provisions within Chapters 1306 and 1173 of the Code stand to be amended in order to clarify that the City will not penalize persons criminally or administratively for refusing to permit warrantless or non-emergency searches in the inspection of structures; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, because of the advent of litigation across Ohio on the subjects covered herein; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section ~~21~~. Section 1306.49, Inspection, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1306.49 INSPECTION.

(a) The Building Commissioner is hereby authorized to make or cause to be made inspections to determine the condition of dwellings, dwelling units, occupiable structures and premises located within the City in order that he may perform his duty of safeguarding the health and safety of the occupants of dwelling units and occupiable structures and of the general public and to determine whether they conform to the provisions of this Code. Such inspections may also be made whenever the Building Commissioner has reasonable cause to believe that a violation of this Code exists therein or thereon.

(b) The Building Commissioner is authorized to revoke the housing license of any property to which the Building Commissioner is denied access to make an inspection.

shall be repealed, and new Section 1306.49, Inspection, shall be enacted to read as follows:

1306.49 INSPECTION.

~~(a) The Building Commissioner is hereby authorized to make or cause to be made inspections to determine the condition of dwellings, dwelling units, occupiable structures and premises located within the City in order that he or she may perform his or her duty of safeguarding the health and safety of the occupants of dwelling units and occupiable structures and of the general public and to determine whether they conform to the provisions of this Code. Such inspections may also be made whenever the Building Commissioner has reasonable cause to believe that a violation of this Code exists therein or thereon.~~

~~(b) The Building Commissioner is authorized to revoke the housing license of any property to which the Building Commissioner is denied access to make an inspection.~~

Section 32. Section 1306.50, Right of Entry, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1306.50 RIGHT OF ENTRY.

(a) For the purpose of making such inspections, the Building Commissioner, upon presentation of proper credentials is authorized to enter, examine and survey at all reasonable times all dwelling, dwelling units, rooming units, occupiable structures, structures and premises provided for in this Code. The owner and occupant of every such dwelling, dwelling unit, rooming unit, occupiable structure and premises and the person in charge thereof shall give such official free access to such dwelling, dwelling unit, rooming unit, occupiable structure and premises at all reasonable times for the purpose of such inspection, examination and survey.

(b) Every occupant of a dwelling, dwelling unit or occupiable structure shall give the owner thereof or his agents and employees access to any part of such dwelling, dwelling unit, occupiable structure or their premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Code.

(c) Except in emergency situations, no penalty under the penalty provisions of this Code shall apply against any owner who refuses the right of entry hereunder until a search warrant is obtained.

shall be repealed, and new Section 1306.50, Right of Entry; Warrants, shall be enacted to read as follows:

1306.50 RIGHT OF ENTRY; WARRANTS.

(a) For the purpose of making such any inspections required or permitted under this Chapter, the Building Commissioner, upon presentation of proper credentials is authorized to enter, examine and survey at all reasonable times all dwelling, dwelling units, rooming units, occupiable structures, structures and premises provided for in this Code. The owner and occupant of every such dwelling, dwelling unit, rooming unit, occupiable structure and premises and the person in charge thereof shall give such official free access to such dwelling, dwelling unit, rooming unit, occupiable structure and premises at all reasonable times for the purpose of such inspection, examination and survey.

(b) Every occupant of a dwelling, dwelling unit or occupiable structure shall give the owner thereof or his agents and employees access to any part of such dwelling, dwelling unit, occupiable structure or their premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Code.

(c) (1) Except as may be permitted by law in exigent or emergency situations, no penalty under the penalty provisions of this Code, or adverse administrative action permitted under this Code, shall apply or be made against any owner or other party who refuses the right of entry granted to the Building Commissioner hereunder until a search warrant is obtained.

(2) If the owner or occupant does not consent to the proposed inspection, the Building Commissioner may appear before any judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within ten (10) calendar days after the non-consent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the code provisions identified in this Code. The court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall be issued:

- A. eyewitness account of violation;
- B. citizen complaints;
- C. tenant complaints;
- D. plain view violations;
- E. violations apparent from city records;
- F. property deterioration;
- G. age of property;
- H. nature of alleged violation;
- I. condition of similar properties in the area;
- J. documented violations on similar properties in the area;
- K. passage of time since last inspection; and
- L. previous violations on the property.

(d) If a warrant is issued, no owner or occupant shall fail or neglect, upon presentation of a warrant, to properly permit entry therein by the Building Commissioner for the purpose of conducting an inspection and examination pursuant to this section and consistent with the terms of the warrant. If the court declines to issue a warrant, or if no warrant is sought, the inspection may still take place but the scope thereof shall be limited to such areas as are in plain view.

Section 3. Section 1306.53, Furnishing Certificate to Purchaser of Multiple Dwellings/Certificate to Purchaser of One or More Rental Units, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1306.53 FURNISHING CERTIFICATE TO PURCHASER OF MULTIPLE DWELLINGS/CERTIFICATE TO PURCHASER OF ONE OR MORE RENTAL UNITS.

(a) Whoever sells, conveys, leases or otherwise transfer an interest in real property, which has situated thereon a rental dwelling structure, shall secure a Certificate of Occupancy from the Building Commissioner and shall furnish said Certificate to the purchaser, lessee or transferee prior to the execution of the land contract or the delivery of the deed, lease or conveyance. Whoever sells, conveys, or otherwise transfers an interest in any structure, which has situated thereon any rental dwelling unit or dwelling unit that has been rented or leased to any person within the 24 months preceding the conveyance or transfer, shall secure a Certificate of Occupancy from the Building Commissioner and shall furnish said Certificate to the purchaser or transferee prior to the recording of the land contract or the delivery of the deed or conveyance, whichever shall first occur.

(b) This section shall have no application to lawful one and two family structures or condominium units occupied by the owner as the owner's principal resi-

dence at the time of the conveyance or transfer and for the 24 months preceding the conveyance or transfer.

(c) Whoever fails to comply with the provisions of this Section shall be guilty of a misdemeanor of the first degree.

shall be repealed, and new Section 1306.53, Furnishing Certificate to Purchaser of Multiple Dwellings/Certificate to Purchaser of One or More Rental Units, shall be enacted to read as follows:

1306.53 FURNISHING CERTIFICATE TO PURCHASER OF MULTIPLE DWELLINGS/CERTIFICATE TO PURCHASER OF ONE OR MORE RENTAL UNITS.

(a) Whoever sells, conveys, leases or otherwise transfers an interest in real property, which has situated thereon a rental dwelling structure, shall secure a ~~Certificate~~ certificate of Occupancy code compliance from the Building Commissioner and shall furnish said ~~Certificate~~ certificate to the purchaser, lessee or transferee prior to the execution of the land contract or the delivery of the deed, lease or conveyance. Whoever sells, conveys, or otherwise transfers an interest in any structure, which has situated thereon any rental dwelling unit or dwelling unit that has been rented or leased to any person within the 24 months preceding the conveyance or transfer, shall secure a ~~Certificate~~ certificate of Occupancy code compliance from the Building Commissioner and shall furnish said ~~Certificate~~ certificate to the purchaser or transferee prior to the recording of the land contract or the delivery of the deed or conveyance, whichever shall first occur.

(b) This section shall have no application to lawful one- and two-family structures or condominium units occupied by the owner as the owner's principal residence at the time of the conveyance or transfer and for the 24 months preceding the conveyance or transfer.

(c) Whoever fails to comply with the provisions of this Section shall be guilty of a misdemeanor of the first degree.

Section 4. Section 1306.54, Duties of Escrow Agent, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1306.54 DUTIES OF ESCROW AGENT.

No person, firm or corporation acting in the capacity of an escrow agent in any real estate transaction involving the sale of any rental dwelling structure or dwellings requiring a housing license pursuant to Section 1306.43 shall transfer title or distribute funds until there has been deposited in escrow an acknowledgment from the buyer of the receipt of a copy of the Certificate of Occupancy required by Section 1306.53, housing license required by Section 1306.43, and the provisions of Section 1306.53 have been complied with. Whoever fails to comply with the provisions of this Section shall be deemed guilty of a misdemeanor of the fourth degree.

shall be repealed, and new Section 1306.54, Duties of Escrow Agent, shall be enacted to read as follows:

1306.54 DUTIES OF ESCROW AGENT.

No person, firm or corporation acting in the capacity of an escrow agent in any real estate transaction involving the sale of any rental dwelling structure or dwellings requiring a housing license pursuant to Section 1306.43 shall transfer title or distribute funds until there has been deposited in escrow an acknowledgment from the buyer of the receipt of a copy of the ~~Certificate~~ certificate of

Occupancy code compliance required by Section 1306.53, housing license required by Section 1306.43, and the provisions of Section 1306.53 have been complied with. Whoever fails to comply with the provisions of this Section shall be deemed guilty of a misdemeanor of the fourth degree.

Section 5. Subsection (w) of Section 1103.02, Definitions, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1103.02 DEFINITIONS.

The following terms and phrases shall have, for purposes of the Code, the meanings as set forth in this section.

...

(w) CONDITIONAL USE PERMIT means a Certificate of Use and Occupancy issued by the Commissioner on approval of the Commission to allow a use other than a use permitted by right in a particular district on a specific lot.

...

shall be repealed, and new Section 1103.02, Definitions, shall be enacted to read as follows:

1103.02 DEFINITIONS.

The following terms and phrases shall have, for purposes of the Code, the meanings as set forth in this section.

...

(w) CONDITIONAL USE PERMIT means a ~~Certificate~~certificate of Use and Occupancy issued by the Commissioner on approval of the Commission to allow a use other than a use permitted by right in a particular district on a specific lot.

...

Section 6. Section 1143.02, General Provisions, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1143.02 GENERAL PROVISIONS.

(a) For every building hereafter erected or expanded, or where the use is changed or enlarged, there shall be provided parking as set forth in this chapter.

(b) No permits shall be issued for any building, improvement or use of land, including, but not limited to, building permits and certificates of occupancy, until a parking plan is submitted to the Director showing such parking spaces, as defined in Section 1103.02 of this Zoning Code, as is hereunder required. Such plan shall be prepared at a reasonable scale, showing property lines, the dimensions of the property, the size and arrangement of all parking spaces, the means of ingress and egress to such parking spaces from the street and interior circulation within the property, the extent of any change required in existing site conditions to provide required parking spaces and such other conditions as may be necessary to permit review and approval of the proposed parking spaces.

(c) Off-street, on-site parking spaces for all uses as required by this chapter shall be designed and maintained in accordance with applicable sections of the Code so as to be safe, attractive and free of hazard, nuisance or other unsafe condition.

(d) Unenclosed parking spaces shall not be used for repair of a motor vehicle.

(e) Parking for all motor vehicles shall be on an improved surface of concrete, asphalt or other materials approved by the Commissioner.

shall be repealed, and new Section 1143.02, General Provisions, shall be enacted to read as follows:

1143.02 GENERAL PROVISIONS.

(a) For every building hereafter erected or expanded, or where the use is changed or enlarged, there shall be provided parking as set forth in this chapter.

(b) No permits shall be issued for any building, improvement or use of land, including, but not limited to, building permits and certificates of occupancy code compliance, until a parking plan is submitted to the Director showing such parking spaces, as defined in Section 1103.02 of this Zoning Code, as is hereunder required. Such plan shall be prepared at a reasonable scale, showing property lines, the dimensions of the property, the size and arrangement of all parking spaces, the means of ingress and egress to such parking spaces from the street and interior circulation within the property, the extent of any change required in existing site conditions to provide required parking spaces and such other conditions as may be necessary to permit review and approval of the proposed parking spaces.

(c) Off-street, on-site parking spaces for all uses as required by this chapter shall be designed and maintained in accordance with applicable sections of the Code so as to be safe, attractive and free of hazard, nuisance or other unsafe condition.

(d) Unenclosed parking spaces shall not be used for repair of a motor vehicle.

(e) Parking for all motor vehicles shall be on an improved surface of concrete, asphalt or other materials approved by the Commissioner.

Section 7. Section 1171.01, Building Commissioner, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1171.01 BUILDING COMMISSIONER.

For purposes of this Code, the Commissioner, or the Commissioner's designee, shall have the following powers and duties:

(a) To enforce this Code and interpret the meaning and application of its provisions, including zoning district boundaries as shown on the Zoning Map.

(b) To approve minor area variances pursuant to Section 1173.04(b), and keep a record of same with a notation of any special conditions involved.

(c) To confirm and/or determine site conditions and project dimensions from all applications.

(d) To conduct inspections of structures and uses of land to determine compliance with this Code and to maintain records related to said inspections; in the case of any violation, the Commissioner shall notify in writing the owner and, where applicable, the tenant(s) of any such structure or structures, said notice to specify the nature of the violation and necessary corrective action.

(e) To determine the existence of any violation of the Code and cause such notifications, revocation notices, stop orders, or citations to be issued, or initiate such other administrative or legal action as needed to address such violations.

(f) To deny or revoke a Certificate of Occupancy or any permit required by this Code or these Ordinances where the proposed use or structure does not comply with this Code or these Ordinances.

shall be repealed, and new Section 1171.01, Building Commissioner, shall be enacted to read as follows:

1171.01 BUILDING COMMISSIONER.

For purposes of this Code, the Commissioner, or the Commissioner's designee, shall have the following powers and duties:

(a) To enforce this Code and interpret the meaning and application of its provisions, including zoning district boundaries as shown on the Zoning Map.

(b) To approve minor area variances pursuant to Section 1173.04(b), and keep a record of same with a notation of any special conditions involved.

(c) To confirm and/or determine site conditions and project dimensions from all applications.

(d) To conduct inspections of structures and uses of land to determine compliance with this Code and to maintain records related to said inspections; in the case of any violation, the Commissioner shall notify in writing the owner and, where applicable, the tenant(s) of any such structure or structures, said notice to specify the nature of the violation and necessary corrective action.

(e) To determine the existence of any violation of the Code and cause such notifications, revocation notices, stop orders, or citations to be issued, or initiate such other administrative or legal action as needed to address such violations.

(f) To deny or revoke a ~~Certificate~~ certificate of Occupancy code compliance or any permit required by this Code or these Ordinances where the proposed use or structure does not comply with this Code or these Ordinances.

Section 8. Section 1171.05, Permits, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1171.05 PERMITS.

(a) No department, board, official or public employee of the City who is vested with the duty or authority to issue permits, certificates or licenses for any building, purpose, or use shall issue same if such building, purpose, or use would be in conflict with the provisions of this Code, and any permit so issued, shall be null and void without the necessity of any proceedings for revocation, and any work undertaken or use established pursuant to any such authorization shall be unlawful. No action shall be taken by any board, agency, officer or employee of the City purporting to validate any such violation.

(b) The Commissioner shall issue no building permit or Certificate of Occupancy for any building, structure, use or change of use during the period in which an Ordinance, or other measure which would forbid the action authorized under such permit, is pending before Council or has been formally recommended to Council by the Commission, or is subject to referendum or referendum is pending thereon. However, no permit shall be withheld for more than 180 days after acceptance of application therefor (due to such Ordinance or measure still pending before but not yet passed by Council at the end of such 180 day period).

shall be repealed, and new Section 1171.05, Permits, shall be enacted to read as follows:

1171.05 PERMITS.

(a) No department, board, official or public employee of the City who is vested with the duty or authority to issue permits, certificates or licenses for any building, purpose, or use shall issue same if such building, purpose, or use would be in conflict with the provisions of this Code, and any permit so issued, shall be null and void without the necessity of any proceedings for revocation, and any work undertaken or use established pursuant to any such authorization shall be unlawful. No action shall be taken by any board, agency, officer or employee of the City purporting to validate any such violation.

(b) The Commissioner shall issue no building permit or ~~Certificate of Occupancy~~ certificate of code compliance for any building, structure, use or change of use during the period in which an Ordinance, or other measure which would for-

bid the action authorized under such permit, is pending before Council or has been formally recommended to Council by the Commission, or is subject to referendum or referendum is pending thereon. However, no permit shall be withheld for more than 180 days after acceptance of application therefor (due to such Ordinance or measure still pending before but not yet passed by Council at the end of such 180 day period).

Section 9. Section 1173.01, Certificate of Use and Occupancy Required, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1173.01 CERTIFICATE OF USE AND OCCUPANCY REQUIRED.

A certificate of use and occupancy shall be obtained from the Commissioner for any of the following:

- (a) Use and occupancy of a building hereafter erected or structurally altered.
 - (b) A change in use of an existing building to a use of a different district classification under this Code.
 - (c) Use and occupancy of vacant land or change in use of land.
 - (d) Any change in the use of a non-conforming use.
 - (e) Any change of tenants of a retail unit.
 - (f) Any change in the ownership of a non-owner occupied single- or two-family dwelling.
 - (g) Any change in the ownership of any three-family or multi-family dwelling.
- No such occupancy, use or change of use shall take place until a Certificate of Use and Occupancy has been issued by the Commissioner.

shall be repealed, and new Section 1173.01, Certificate of Use and Occupancy Code Compliance Required, shall be enacted to read as follows:

1173.01 CERTIFICATE OF USE AND OCCUPANCY CODE COMPLIANCE REQUIRED.

A certificate of use and occupancy code compliance shall be obtained from the Commissioner for any of the following:

- (a) Use and occupancy of a building hereafter erected or structurally altered.
 - (b) A change in use of an existing building to a use of a different district classification under this Code.
 - (c) Use and occupancy of vacant land or change in use of land.
 - (d) Any change in the use of a non-conforming use.
 - (e) Any change of tenants of a retail unit.
 - (f) Any change in the ownership of a non-owner occupied single- or two-family rental dwelling pursuant to Section 1306.53.
 - ~~(g) Any change in the ownership of any three-family or multi-family dwelling.~~
- No such occupancy, use or change of use shall take place until a Certificate certificate of Use and Occupancy code compliance has been issued by the Commissioner.

Section 10. Subsection (i) of Section 1173.06, Fees, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1173.06 FEES.

- ...
- (i) Certificate of Occupancy
- (1) Residential: \$50.00
- (2) Commercial: \$75.00
- ...

shall be repealed, and new Subsection (i) of Section 1173.06, Fees, shall be enacted to read as follows:

1173.06 FEES.

- ...
- (i) Certificate of Occupancy or Certificate of Code Compliance
- (1) Residential: \$50.00
- (2) Commercial: \$75.00
- ...

Section 11. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were passed in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

Section 12. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least two thirds of the members of Council this ordinance shall take effect and be in force ~~on January 1, 2019~~ immediately, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor