

**MINUTES OF THE HOUSING COMMITTEE**  
**October 15, 2018**  
**East Conference Room**

**Present:** Councilmembers Anderson, Rader & O'Malley

**Also Present:** Councilmembers George, Bullock, O'Leary & Litten; City Architect Mike Molinski, Planning Director Sylvester, Law Director Butler, Mayor Summers, Assistant Building Commissioner Joe Meyers

**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.**

Director Butler provided an overview of the ordinance and its purpose. He referred to recent court decisions in Portsmouth, Oakwood and Bedford where judges ruled against inspection ordinances similar to Lakewood's, finding them in violation of the Constitution's Fourth Amendment. Ordinance 39-18 amends the ordinance to ensure that no property owner is criminalized or penalized for refusing to consent to a property inspection. Director Butler further explained that Ordinance 39-18 eliminates the point of sale program that has been in place for 1-2 family rental properties. He stated that maintaining this program puts the City at risk for litigation.

Director Butler distributed an amended version of Ordinance 39-18. He explained the changes. Section 1 has been removed because it was addressed in the recently passed Ordinance 18-18.

Director Butler explained the changes proposed to Section 1306.50, stating that they ensure the City cannot penalize anyone for refusing a housing inspection. The section also lays out the criteria for issuing warrants, noting that there are many reasons for which a judge may issue a warrant. He clarified that permit-related inspections are separate and that residents seeking permits must comply with inspections.

Councilmember O'Malley objected to the City ceasing point-of-sale inspections at the time the ordinance was introduced and questioned what will happen to those properties that exchanged hands without inspections if Council decides to maintain point-of-sale inspections.

Director Butler responded, stating that continuing with the inspections with the legislation pending could potentially open the City up to a lawsuit. He advised that Council may revise the ordinance but that inspections should not be enforced until the matter is settled.

Councilmember O'Malley made a case for the importance of point-of-sale inspections, stating that eliminating them puts renters at a serious disadvantage.

Councilmember Anderson expressed his position that the City should focus its efforts on those inspections which yield the most corrections. He asked Building Department officials questions about the different kinds of inspections and the average number of violations cited.

Mr. Molinski stated that the average property maintenance and safety inspection results in 14 violations and that the average certificate of occupancy inspection yields 10 violations

Given this, Councilmember Anderson suggested that the inspection program could be more productive by eliminating point-of-sale inspections and replacing them with more property maintenance and safety inspections.

Mr. Molinski provided additional data on certificate of occupancy inspections. The department performs about 400 of these inspections per year.

Councilmember George expressed her opinion that point-of-sale inspections do a good service to renters and stated that she would like to amend the ordinance to continue point-of-sale inspections in a legal manner, even if they are voluntary.

Councilmember Anderson emphasized that he prefers the Building Department to focus time and capacity on the inspections which are most productive – that is, property maintenance and safety inspections.

Mayor Summers remarked that the administration is not entirely in agreement on this topic. He remarked on the value of point-of-sale inspections but also expressed concern about potential litigation.

Mr. Molinski remarked that inspections are most effective when they are focused and targeted. Point-of-sale inspections diverge from this because they are driven more by the housing market than need.

Building Department officials explained the point-of-sale inspection process, noting that it is up to the seller to initiate such an inspection. If the seller does not initiate it before the sale, the City is not aware until after the sale.

Housing Committee deferred Ordinance 39-18 and adjourned at 7:43 p.m.