

MINUTES OF THE HOUSING COMMITTEE
May 6, 2019
East Conference Room

Present: Councilmembers Anderson, O'Malley & Rader

Also Present: Councilmembers Litten, Bullock, George, Law Director Butler, Building Commissioner Joe Meyers, Assistant Building Commissioner Chris Parmalee

Call to Order: 7:02 p.m.

ORDINANCE NO. 39-18 - 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, 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. (PLACED ON 1ST READING AND REFERRED TO HOUSING 9/4/18; 2nd reading 9/17/18; deferred 10/15/18)

Director Butler directed the Committee's attention to the working draft provided. This version was introduced in Committee in January. This version makes changes to the term "certificate of occupancy" and essentially brings back point-of-sale inspections.

Building Department officials remarked on the department's experience having point-of-sale inspections suspended since October. The change has not resulted in a significant impact either way. There has been no rise in complaints though some have requested the inspections.

Councilmember Anderson reminded the Committee that the average number of violations during an annual inspection is higher than the number of violations during a point-of-sale inspection. He also reminded the Committee that the ordinance was introduced due to concerns about the legality of point-of-sale inspections.

Director Butler explained that some of the communities targeted by legal action have abandoned point-of-sale inspections while others have beefed up the warrant language in their codes to ensure that point-of-sale inspections abide by the Fourth Amendment moving forward. To be lawful, a certificate of occupancy can not be contingent upon an inspection and other due process safeguards must be put into place.

The working draft version of the ordinance borrows language from municipalities that have strengthened their warrant language. Director Butler remarked that he and Chief Assistant Law Director Swallow have discussed the list of warrant criteria in 1306.50 and decided that it is sufficient and that there are risks to being too specific. He reminded the Committee that point-of-sale inspections are only performed on non-owner-occupied rentals. He dismissed the idea of adding bank foreclosed properties to the list because these are usually not rental properties. He suggested that the Committee address concerns about those properties with separate legislation.

Building Department officials stated that should the ordinance pass, their department will work to resume inspections and communicate this change to the public. They agreed that re-establishing a beefed-up warrant provision strikes the right balance.

Director Butler explained that the term Certificate of Occupancy in the Code is being changed to Certificate of Code Compliance to comport with the meaning of such certificates in the State Code. Procedurally, this will result in the Building Department issuing a new certificate. He recapped that this legislation will retain/re-establish point-of-sale inspections using new language to make them lawful. Point-of-sale inspections are only performed on non-owner-occupied rental properties.

Councilmember O'Malley remarked that this ordinance is a better version than the one originally introduced and provides a way forward that is practical and legally defensible. He moved to recommend Ordinance 39-18 to Council as substituted.

Motion was seconded by Councilmember Anderson.

Councilmember Bullock asked if the Building Department would like to decrease or increase these inspections in the future.

Commissioner Meyers replied that he sees no need to expand the program to owner-occupied properties. He pointed to the housing survey as a tool to proactively evaluate the exterior condition of all homes.

Councilmember George complimented the City and the administration for their work to retain these inspections. She is satisfied that her concerns have been addressed.

On the motion to recommend adoption of Ordinance 39-18 as substituted: all members voted in favor.

Motion passed.

Housing Committee adjourned at 7:22 p.m.