

SUSPEND 1ST READING
ORDINANCE

DATE: 05.02.2022

MOTION BY: Wrobel

SUPPORTED BY: Martin

Motion Carried: 7-0

ZICK LAW OFFICE

3173 Biddle Avenue
Wyandotte, MI 48192
(734) 285-8500

Fax #: (734) 281-1780

Email: zicklawoffice@gmail.com

Matthew A. Zick

May 9, 2022

AGENDA ITEM

Mayor and Council
City of Flat Rock
25500 Gibraltar Road
Flat Rock, MI 48134

Re: Proposed Ordinance #457 (2nd Reading)
Add Article XII to Chapter 18 (Sections 18-700 - 18-708)
Our File No. 22-129

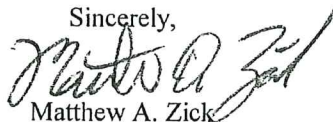
Dear Mayor and Council:

Please find for your review and consideration, proposed Ordinance number 457 re: Inspection Upon Transfer Ordinance. I drafted this Ordinance in conjunction with Building Official Jeff Kemp, Jr. This new Article provides for city inspection upon transfer of property.

Please be advised that this is the second reading of this Ordinance. If this proposed Ordinance #457 meets with Council's approval, please pass a Motion to waive the second reading followed by a separate Motion to adopt the Amended Ordinance. Please include in the resolution an amendment to the fee schedule setting the Resale Inspection Fee at Two Hundred (\$200.00) Dollars.

Thank you for your attention to this matter. If you should have any questions, please feel free to contact my office.

Sincerely,



Matthew A. Zick
City Attorney

MAZ/kp
Attachments

SUSPEND 2ND READING
ORDINANCE

DATE: 05.16.2022

MOTION BY: Martin

SUPPORTED BY: Wrobel

Motion Carried: 6-0

**CITY OF FLAT ROCK
APPROVED**

BY Council

DATE 05.16.2022

MOTION BY Dishaw

SUPPORTED BY Wrobel

MOTION CARRIED 6-0

ORDINANCE NO. 457

INSPECTION UPON TRANSFER ORDINANCE

Section I. AN ORDINANCE TO AMEND CHAPTER 18 BY ADDING ARTICLE XII, SECTION 18-700 – 18-708 PROVIDING FOR INSPECTION UPON TRANSFER.

THE CITY OF FLAT ROCK, WAYNE COUNTY, MICHIGAN, ORDAINS:

Article XII: Inspection Upon Transfer

Sec. 18-700. - Purpose.

The purpose of this article is to help protect the health, safety and welfare of the citizens by attempting to prevent blight, avoid the creation and maintenance of a nuisance and insure minimum maintenance of dwellings through recognition of how the conditions set forth in this article can affect the general well-being and property values of residents.

(Ord. No. 457, 5-16-2022)

Sec. 18-701. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use means a garage, shed, pool, gazebo, pigeon coop, doghouse, playhouse, or similar use.

Certificate of occupancy means a certificate issued by the building department which certifies that a preliminary inspection by the building department has been conducted and that the dwelling meets the minimum standards required to permit the transfer of a one- or two-family dwelling, as best as can be determined. A current certificate of occupancy is a certificate which has been applied for not more than 30 days before a unit covered by this article is listed for sale, and received prior to the date of transfer.

Dwelling means a one- or two-family residential structure and accessory uses located in the city, or any individual family unit cooperatively owned but individually occupied pursuant to a trust, common tenancy or stock ownership in accordance with sections 99 through 109 of Public Act No. 327 of 1931 (MCL 450.99-450.104).

New dwelling means a one- or two-family dwelling unit which has never been occupied.

Owner shall mean any person, corporation, DBA, or any other legal entity who, alone or jointly or severally with others:

- (1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Shall have charge, possession or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions

of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Transfer means the sale or conveyance of title to another for consideration, or the execution of a land contract, the exercise of an option to purchase a dwelling, or, in the case of a cooperative, the change of occupancy in conjunction with a transfer of an interest. A conveyance by lease, gift, devise, or lien foreclosure is not included in this definition. A transfer subject to the terms of a purchase agreement entered into prior to the effective date of this article, is not included in this definition. Whenever the words "dwelling," "dwelling unit," or "premises," are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. No. 457, 5-16-2022)

Sec. 18-702. - Conflict with other ordinances and laws.

When a provision of this article is found to be in conflict with a provision of any state statute or any zoning, building, fire, safety or health ordinance or code of the city, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. If a provision of this article is found to be in conflict with a provision of a state statute or any other ordinance or code of the city which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this article shall be deemed to prevail.

(Ord. No. 457, 5-16-2022)

Sec. 18-703. - Right of entry, access.

- (a) The building department director or his/her designee is hereby authorized and directed to make inspections to determine the conditions of dwellings, dwelling units, rooming units and premises, located within the city, in order that they may perform their duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, the building department director or his/her designee, is hereby authorized to enter, examine and survey at any reasonable time all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit, rooming unit, or the person in charge thereof, shall give free access to such dwelling, dwelling unit or rooming unit and its premises, at any reasonable time, for the purpose of such inspection, examination and survey.
- (b) Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at any reasonable time, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this article.

(Ord. No. 457, 5-16-2022)

Sec. 18-704. - Inspection and occupancy requirements.

- (a) It shall be unlawful for anyone, including, but not limited to, the owner, attorney, representative, lending institution, title company, real-estate firm, broker, or salesman to assist in consummating a sale, transfer, or other transaction involving real property in the city regardless of where the closing of the sale occurs, without first presenting the purchaser with a copy of an inspection

report or certificate of occupancy issued by the building department within six months prior to the date of such sale or transfer.

- (b) If the real property is sold without a certificate of occupancy then the purchaser must sign a preoccupancy agreement agreeing to correct all violations shown on the inspection report within six months of the date of the preoccupancy agreement. Preoccupancy agreements may be used for closing purposes only and do not allow occupancy of the premises. The purchaser may assume the responsibility of correcting violations by executing a notarized affidavit to this effect and submitting the affidavit to the building department.
- (c) This section does not apply to the individual transfer of property through inheritance where no bona fide sale is intended and the property is occupied by the person or persons receiving the inheritance.
- (d) It shall be unlawful for any person to occupy or reoccupy or for any owner or agent thereof to permit the occupation or reoccupation of any building or addition thereto, or part thereof, for any purpose, until occupancy has been approved by the building department.
 - (1) A certificate of occupancy is issued when all violations noted on the inspection report issued by the building department have been corrected and required repairs have been made.
 - (2) In the event an owner, prospective purchaser, or transferee requests that occupancy be permitted prior to correction of all violations noted on the inspection report, and if the absence of such complete conformance does not, in the judgment of the building department, constitute material health or safety hazards, a conditional occupancy agreement may be issued upon the condition that complete conformance be achieved within a reasonable time specified by the Building Department, but in not more than 90 days. The Building Department may grant a one-time extension of an additional 90 days for good cause; an extension may be granted only for owner-occupied property.
- (e) There shall be a performance bond posted with the City of Flat Rock in an amount deemed appropriate by the Building Official to guarantee completion of the work and the performance bond shall not exceed the estimated cost of repairs. The performance bond shall not be completely released until all violations are corrected, final inspection is performed and the work is deemed approved by the Building Department. The Building Department may elect to return portions of the performance bond after inspection even prior to the completion of all work if the Building Department determines a substantial number of violations on the inspection list have been corrected. If all violations on the inspections list have not been corrected within the timeframe set forth by the Building Department, then occupancy may be revoked and the performance bond may be forfeited to the City.

(Ord. No. 457, 5-16-2022)

Sec. 18-705. - Disclaimer of liability.

- (a) A certificate of occupancy is not a warranty or guarantee that there are no defects in the dwelling and the city shall not be held responsible for hidden or latent defects, or those not noted in the inspection report.

- (b) This inspection of the land use, exterior posture and interior accessories of the structure is limited to visual inspection only. The city does not guarantee or approve by inference any latent, structural, or mechanical defects therein, or such items that are not apparent by visual inspection.
- (c) The city shall not assume any liability to any person by reason of the inspections required by this article or the code adopted in this article or the issuance of a certificate of review or a certificate of occupancy.
- (d) This inspection is solely for the purpose of permitting the city to continually assess the condition of the city's housing stock, to monitor compliance with the building code, and to encourage owners to improve their properties. Purchasers must rely solely upon the representations and disclosures made by the seller, their own judgment and experience, and the advice of consultants and advisors of their own selection. Purchasers may not rely upon the city's inspection and reports to represent a full and comprehensive itemization of defects or assume that a certificate of review means that the structure is in full compliance with all local codes.

(Ord. No. 457, 5-16-2022)

Sec. 18-706. - Registration; fees.

Any person intending to transfer a dwelling must first register and make arrangements with the building department for an inspection of the dwelling, to occur prior to the date of transfer. The fee for the registration and inspection shall be in the amount as set forth in the City of Flat Rock Building Department Fee Schedule as established by resolution of the city council.

(Ord. No. 457, 5-16-2022)

Sec. 18-707. - Period of validity of inspection report; issuance of certificate of occupancy.

If a property is inspected and the sale does not occur, the inspection report is valid for a twelve-month period. If the owner corrects all violations, a certificate of occupancy will be issued.

(Ord. No. 457, 5-16-2022)

Sec. 18-708. - Failure to comply; penalty.

Violation of this article by any person, firm and/or corporation shall be a misdemeanor punishable as provided under section 1-16 of this Code. Each day that the violation continues shall constitute a separate and distinct violation. Nothing in this article constitutes a waiver of the city's right to petition the circuit court for the right to take action to prevent occupancy of a property.

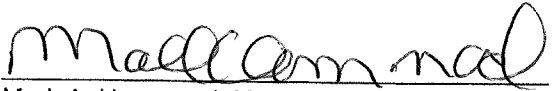
(Ord. No. 457, 5-16-2022)

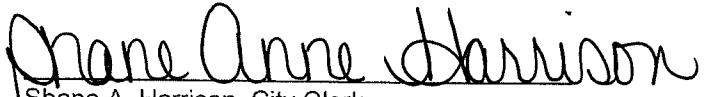
Section II.

That all ordinances or parts of ordinances of the Code of the City of Flat Rock, or parts of the Code of the City of Flat Rock, not consistent herewith are hereby repealed.

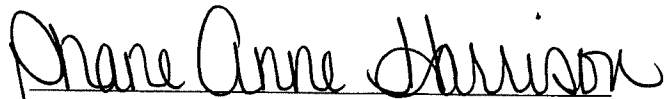
Section III.

22 This ordinance or summary thereof shall be published in the News-Herald newspaper as required by Charter on the day of May, 2022, but in no event shall be effective earlier than May 26, 2022.


Mark A. Hammond, Mayor


Shane A. Harrison, City Clerk

I hereby certify that the foregoing is a true copy of the ordinance adopted by the Council of the City of Flat Rock at a meeting thereof on May 16, 2022, the original of which proceedings are on file in my office.


Shane A. Harrison, City Clerk



MICHIGAN GROUP

AFFIDAVIT OF PUBLICATION

2125 Butterfield Dr, Suite 102N • Troy MI 48084

**CITY of FLAT ROCK
25500 GIBRALTAR ROAD**

**FLAT ROCK, MI 48134-1399
Attention: Shane Anne Harrison**

**STATE OF MICHIGAN,
COUNTY OF WAYNE**

The undersigned Cindy Slater Cindy Slater, being duly sworn the he/she is the principal clerk of The News-Herald, thenewsherald.com, published in the English language for the dissemination of local or transmitted news and intelligence of a general character, which are duly qualified newspapers, and the annexed hereto is a copy of certain order, notice, publication or advertisement of:

CITY of FLAT ROCK

Published in the following edition(s):

The News-Herald	05/22/22
thenewsherald.com	05/22/22

VICKI ARSENAULT
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OAKLAND
My Commission Expires May 11, 2026
Acting in the County of _____

Sworn to the subscribed before me this 25 May, 2022

Vicki Arsenault
Notary Public, State of Michigan
Acting in Oakland County

Advertisement Information

Client Id: 640965 Ad Id: 2328178 PO: Sales Person: 200308

ORDINANCE NO. 457
INSPECTION UPON TRANSFER ORDINANCE

Section I. AN ORDINANCE TO AMEND CHAPTER 18 BY ADDING ARTICLE XII, SECTION 18-700-18-708 PROVIDING FOR INSPECTION UPON TRANSFER.

THE CITY OF FLAT ROCK, WAYNE COUNTY, MICHIGAN, ORDAINS:

Article XII: Inspection Upon Transfer Sec. 18-700. - Purpose.

The purpose of this article is to help protect the health, safety and welfare of the citizens by attempting to prevent blight, avoid the creation and maintenance of a nuisance and insure minimum maintenance of dwellings through recognition of how the conditions set forth in this article can affect the general well-being and property values of residents.

(Ord. No. 457, 5-16-2022)

Sec. 18-701. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use means a garage, shed, pool, gazebo, pigeon coop, doghouse, playhouse, or similar use.

Certificate of occupancy means a certificate issued by the building department which certifies that a preliminary inspection by the building department has been conducted and that the dwelling meets the minimum standards required to permit the transfer of a one- or two-family dwelling, as best as can be determined. A current certificate of occupancy is a certificate which has been applied for not more than 30 days before a unit covered by this article is listed for sale, and received prior to the date of transfer.

Dwelling means a one- or two-family residential structure and accessory uses located in the city, or any individual family unit cooperatively owned but individually occupied pursuant to a trust, common tenancy or stock ownership in accordance with sections 99 through 109 of Public Act No. 327 of 1931 (MCL 450.99- 450.104).

New dwelling means a one- or two-family dwelling unit which has never been occupied.

Owner shall mean any person, corporation, OBA, or any other legal entity who, alone or jointly or severally with others:

- (1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Shall have charge, possession or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Transfer means the sale or conveyance of title to another for consideration, or the execution of a land contract, the exercise of an option to purchase a dwelling, or, in the case of a cooperative, the change of occupancy in conjunction with a transfer of an interest. A conveyance by lease, gift, devise, or lien foreclosure is not included in this definition. A transfer subject to the terms of a purchase agreement entered into prior to the effective date of this article, is not included in this definition. Whenever the words "dwelling," "dwelling unit," or "premises," are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. No. 457, 5-16-2022)

Sec. 18-702. - Conflict with other ordinances and laws.

When a provision of this article is found to be in conflict with a provision of any state statute or any zoning, building, fire, safety or health ordinance or code of the city, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. If a provision of this article is found to be in conflict with a provision of a state statute or any other ordinance or code of the city which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this article shall be deemed to prevail.

(Ord. No. 457, 5-16-2022)

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- (a) The building department director or his/her designee is hereby authorized and directed to make inspections to determine the conditions of dwellings, dwelling units, rooming units and premises, located within the city, in order that they may perform their duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, the building department director or his/her designee, is hereby authorized to enter, examine and survey at any reasonable time all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit, rooming unit, or the person in charge thereof, shall give free access to such dwelling, dwelling unit or rooming unit and its premises, at any reasonable time, for the purpose of such inspection, examination and survey.
- (b) Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at any reasonable time, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this article.

(Ord. No. 457, 5-16-2022)

Sec. 18-704. - Inspection and occupancy requirements.

- (a) It shall be unlawful for anyone, including, but not limited to, the owner, attorney, representative, lending institution, title company, real-estate firm, broker, or salesman to assist in consummating a sale, transfer, or other transaction involving real property in the city regardless of where the closing of the sale occurs, without first presenting the purchaser with a copy of an inspection report or certificate of occupancy issued by the building department within months prior to the date of such sale or transfer.
- (b) If the real property is sold without a certificate of occupancy then the purchaser must sign a pre-occupancy agreement agreeing to correct all violations shown on the inspection report within six months of the date of the pre-occupancy agreement. Pre-occupancy agreements may be used for closing purposes only and do not allow occupancy of the premises. The purchaser may assume the responsibility of correcting violations by executing a notarized affidavit to this effect and submitting the affidavit to the building department.
- (c) This section does not apply to the individual transfer of property through inheritance where no bona fide sale is intended and the property is occupied by the person or persons receiving the inheritance.
- (d) It shall be unlawful for any person to occupy or reoccupy or for any owner or agent thereof to permit the occupation or reoccupation of any building or addition thereto, or part thereof, for any purpose, until occupancy has been approved by the building department.
 - (1) A certificate of occupancy is issued when all violations noted on the inspection report issued by the building department have been corrected and required repairs have been made.
 - (2) In the event an owner, prospective purchaser, or transferee requests that occupancy be permitted prior to correction of all violations noted on the inspection report, and if the absence of such complete conformance does not, in the judgment of the building department, constitute material health or safety hazards, a conditional occupancy agreement may be issued upon the condition that complete conformance be achieved within a reasonable time specified by the Building Department, but in not more than 90 days. The Building Department may grant a one-time extension of an additional 90 days for good cause; an extension may be granted only for owner-occupied property.
- (e) There shall be a performance bond posted with the City of Flat Rock in an amount deemed appropriate by the Building Official to guarantee completion of the work and the performance bond shall not exceed the estimated cost of repairs. The performance bond shall not be completely released until all violations are corrected, final inspection is performed and the work is deemed approved by the Building Department. The Building Department may elect to return portions of the performance bond after inspection even prior to the completion of all work if the Building Department determines a substantial number of violations on the inspection list have been corrected. If all violations on the inspections list have not been corrected within the timeframe set forth by the Building Department, then occupancy may be revoked and the performance bond may be forfeited to the City.

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- (b) The city shall not assume any liability to any person by reason of the inspections required by this article or the code adopted in this article or the issuance of a certificate of review or a certificate of occupancy.
- (c) This inspection is solely for the purpose of permitting the city to continually assess the condition of the city's housing stock, to monitor compliance with the building code, and to encourage owners to improve their properties. Purchasers must rely solely upon the representations and disclosures made by the seller, their own judgment and experience, and the advice of consultants and advisors of their own selection. Purchasers may not rely upon the city's inspection and reports to represent a full and comprehensive itemization of defects or assume that a certificate of review means that the structure is in full compliance with all local codes.

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>erformance Bond Amount Required: