

CITY OF ENGLEWOOD

IN

MONTGOMERY COUNTY, OHIO

ORDINANCE NO: 18-04

Passed: April 24, 2018

AN ORDINANCE:

**REPEALING AND REPLACING SECTION 1266.07 OF THE
ENGLEWOOD CODIFIED ORDINANCES, ENTITLED
PRE-SALE OR PRE-LEASE PROPERTY TRANSFER
REQUIREMENTS**

WHEREAS, the City has enacted Section 1266.07 of the Englewood Codified Ordinances, which is entitled "Pre-Sale or Pre-Lease Property Transfer Requirements"; and

WHEREAS, the City Council has determined that it would be in the best interests of the City to amend Section 1266.07; and

WHEREAS, the City is authorized as a charter municipality to exercise all powers of local self-government.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
ENGLEWOOD, MONTGOMERY COUNTY, OHIO, AS FOLLOWS:**

SECTION I

The current Section 1266.07 language in strike-thru is hereby repealed in its entirety:

~~Prior to sale or execution of a lease exceeding 40 years, including extension periods, of any real property in the City, excepting personal wireless service facilities, the owner or duly authorized agent of the property owner shall make application to and schedule with the City an exterior inspection for any violations of either the Zoning Code (Part 12, Title 6, Englewood Codified Ordinances) or Property Maintenance Code (Part 14, Title 4, Chapter 1454, Englewood Codified Ordinances). If said property will be open to the general public, a fire safety inspection will also be included. If no violations are found, upon completion of said inspection(s) the City shall issue a certificate of occupancy stating that no exterior and/or fire and/or property maintenance violations were found to exist as of the date of inspection. If violations are found, no certificate of occupancy shall be issued until said violations are corrected or the property is otherwise brought into compliance. Certificates of occupancy issued by the City pursuant to these provisions shall be valid for a period of 30 days before a reinspection shall be required. No person shall sell or receive a commission or fee from the sale or long term lease of any real property in the City without a valid certificate of occupancy in effect.~~

SECTION II

Section 1266.07 is hereby replaced with the following:

1266.07 Pre-Sale Property Transfer Requirements

- (a) No owner of any real estate premises within the City shall transfer legal or equitable ownership of that premises without first obtaining a pre-sale inspection of the exterior of the premises and a certificate of occupancy, pursuant to this ordinance. The purpose of the inspection is to enable the City to identify whether any violations of this zoning code or any other applicable codes, ordinances, or regulations exist on the premises, such that necessary repairs may be identified and required prior to transfer.
- (b) Application for a pre-sale inspection shall be made by the owner of the premises or their representative on such form, and accompanied by an administrative fee, as may be prescribed from time to time by the Code Enforcement Officer.
- (c) Within 7 business days after an application for pre-sale inspection is submitted, the code official shall complete the inspection and compile a list of any conditions requiring repair prior to transfer. The code official may extend this deadline for successive seven day periods if such delay is the result of circumstances beyond their control.
- (d) No owner is obligated to consent to the pre-sale inspection of premises required by this section, and no criminal penalty shall arise from any such refusal of consent. If the owner of the premises refuses to consent to the pre-sale inspection, then the code official may either:
 - (i) appear before any court of competent jurisdiction and request an administrative search warrant to allow an exterior inspection of the premises. The application for the search warrant shall specify the basis upon which the warrant is being sought, together with any evidence supporting such basis, and shall include a statement that the inspection will be limited to determining whether there are violations of this zoning code or any other applicable codes, ordinances, or regulations existing on the premises; or
 - (ii) perform a plain-view exterior inspection of the premises. In performing any such plain-view exterior inspection, the code official shall limit their inspection to a visual assessment of the exterior of the premises and shall not enter onto the curtilage of the premises while performing the inspection.

- (e) If a search warrant is issued pursuant to this section, no owner, occupant, or representative thereof shall fail or refuse, upon presentation of the warrant, to properly permit entry onto the premises by the code official or his duly authorized designee for the purpose of performing the inspection and consistent with the terms of the warrant. Failure or refusal to permit entry onto the premises following presentation of a warrant pursuant to this section shall be a violation of this zoning code punishable pursuant to Section 1268.99 hereof.
- (f) Upon completion of the inspection and satisfactory repair of any conditions identified by the code official pursuant to this section, the code official shall issue a certificate of occupancy for the premises. Such certificate shall be valid for a period of 180 days from the date of issuance. If no transfer of the premises has occurred within that period, then a new inspection shall be required.

SECTION III

It is hereby found and determined that all formal actions of this City Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION IV

That this Ordinance shall be in full force and effect at the earliest date allowed by law.

PASSED THIS 24th DAY OF April, 2018.

Patricia Burnside

PATRICIA BURNSIDE, MAYOR

ATTEST:

Kerry Norman

KERRY NORMAN, CLERK OF COUNCIL

C E R T I F I C A T E

I, Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio, do hereby certify the foregoing is a true and correct copy from the *Record of Proceedings* of said City. WITNESS my signature this 24th day of April, 2018.

Kerry Norman
Kerry Norman, Clerk of Council

CERTIFICATE OF POSTING

I, Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio, do hereby certify publication of the foregoing ORDINANCE was made as designated by Sections 224.01 and 24.02 of the Englewood Code.

Kerry Norman
Kerry Norman, Clerk of Council