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STATE OF MICHIGAN
BEFORE THE CITY COUNCIL OF THE CITY OF
GIBRALTAR
COUNTY OF WAYNE, STATE OF MICHIGAN

RESOLUTION AMENDING § 6-2.-ELECTRICAL AND BERM
INSPECTION CERTIFICATE ON SALE OF EXISTING
RESIDENCE, ARTICLE I.-IN GENERAL, CHAPTER 6
BUILDINGS AND BUILDING REGULATIONS, CODE OF
ORDINANCES, CITY OF GIBRALTAR, MICHIGAN

At a regular meeting of the City Council for the City of Gibraltar, Wayne County, Michigan held in the Council Chambers of City Hall at 29450 Munro Avenue Gibraltar, MI 48173 on the 10th day of April 2017, the following resolution was offered by Councilperson Riser, supported by Councilperson Arp, as follows:

Recitations

WHEREAS, The City of Gibraltar is a Michigan Municipal Corporation located at 29450 Munro in the City of Gibraltar, Wayne County, Michigan 48173, hereinafter referred to as the "City", and

WHEREAS, the City is organized and existing pursuant to the Michigan Home Rule City Act, M.C.L.A. § 117.1 et. seq. and as such is authorized to adopt, repeal, amend and continue municipal ordinances in conformity with laws of the State of Michigan, and

WHEREAS, the City Council has determined that it is necessary to the public health, safety and welfare to amend Section § 6-2.-Electrical and Berm Inspection Certificate on Sale of Existing Residence, Article I.-In General, Chapter 6 Buildings and Building Regulations, Code of Ordinances, City of Gibraltar, Michigan by amending the aforesaid portion of said ordinance by the repeal of the existing Section § 6-2.- Electrical and berm inspection certificate on sale of existing residence and the enactment of new Section § 6-2.-Inspection Upon Transfer to the code of ordinances for said City to provide for a more comprehensive inspection of a dwelling as well as the issuance of a certificate of approval prior to the transfer of a dwelling within the City of Gibraltar as set forth herein;

NOW THEREFORE, the City of Gibraltar does hereby repeal the current provision of Section § 6-2., Article I.-In General, Chapter 6 Buildings and Building Regulations, Code of Ordinances, City of Gibraltar, Michigan and in its place, enacts and ordains the adoption of new Section § 6-2, as follows:

ORDINANCE NO. 386

AN ORDINANCE TO AMEND SECTION § 6-2.-
ELECTRICAL AND BERM INSPECTION CERTIFICATE
ON SALE OF EXISTING RESIDENCE, ARTICLE I-IN
GENERAL, CHAPTER 6 BUILDINGS AND BUILDING
REGULATIONS, CODE OF ORDINANCES, CITY OF
GIBRALTAR, MICHIGAN BY AMENDING THE
AFORESAID PORTION OF SAID ORDINANCE BY THE
REPEAL OF THE EXISTING SECTION § 6-2. REQUIRING
ONLY ELECTRICAL AND BERM INSPECTIONS AND A
CERTIFICATE ON SALE OF A RESIDENCE AND BY THE
ENACTMENT OF A NEW SECTION § 6-2.-INSPECTION
UPON TRANSFER TO THE CODE OF ORDINANCES
MANDATING A MORE COMPREHENSIVE INSPECTION
AS WELL AS ISSUANCE OF A CERTIFICATE OF
APPROVAL PRIOR TO THE TRANSFER OF A
DWELLING.

THE CITY OF GIBRALTAR ORDAINS:

Sec. 6-2. – Electrical and berm inspection certificate on sale of existing residence, Article I.-
In General, Chapter 6 Buildings and Building Regulations, Code of Ordinances, City of
Gibraltar, Michigan is hereby amended to read as follows:

~~Sec. 6-2. — Electrical and berm inspection certificate on sale of existing residence.
(REPEALED)~~

~~(a) *Inspection certificate necessary for sale of property.* It shall be unlawful to transfer ownership of an existing dwelling unit or residence in the city by outright sale, or deferred sale on land contract, assignment of purchaser's interest in a land contract, vendee's interest in land contract, or by levy of execution from the present owner, where the end result is a transfer thereof to a new owner, unless immediately prior to said transfer, the owner-seller or transferor shall apply to the city building department for a certificate attesting to the fact that the premises have been recently inspected within 90 days of the closing date of such transaction and that:~~

- ~~(1) The subject premises are in compliance with the fire protection system requirements as set forth in the building code, article II of this chapter;~~
- ~~(2) The subject premises are also in compliance with article II of chapter 18, flood damage prevention and article III, installation of flood control measures, with particular reference to berm or retaining wall maintenance measures as may be~~

mandated by section 18-25, and the U.S. Arm Corps of Engineers' standards as specified in that section;

~~(3) The cost of such inspections and the applicable fee shall be paid by the transferor, or the transferee, upon the failure of the transferor to do so. The fee shall be as provided in the schedule of fees adopted by the council.~~

~~(b) *Exemption.* The transfer of ownership by inheritance to a devisee or heir-at-law of the owner shall not be subject to the prohibition of subsection (a) of this section, nor shall the transfer of a partial interest where the existing owner remains as one of the owners of record, such as quit claim deed to add names as joint owners with the existing owner. The reversioning of title upon foreclosure of a land contract or assignment of the seller's interest (of the vendor) in a land contract shall also be exempted.~~

~~(c) *Penalty.* It is hereby provided that a fine of \$100.00 per week shall be imposed for a willful violation of the provisions of subsections (a) and (b) of this section. For each week that ensues without compliance herein, an additional separate offense shall occur and an additional fine may be imposed. In addition, the building department, when advised of a transfer in violation of the provisions of subsection (a) of this section, may proceed with the enforcement of this provision and assess the costs thereof against the transferee, or the realty involved, in the same manner as provided for in the collection of delinquent water and sewage charges in this Code, by the placement of such charge upon the affected parcel's property tax invoice for the next ensuing year.~~

~~(Code 1977, §§ 6-1-6-3; Ord. No. 156, 1-25-1988; Ord. No. 188, 5-23-1992)~~

Sec. 6-2.- Inspection Upon Transfer (NEW)

(A.) - Purpose.

The purpose of this section is to 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. It is further recognized that the conditions set forth herein can improve the general well-being and property values of residents.

(B.) - Definitions.

The following words, terms and phrases, when used in this section, 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 approval 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 dwelling, as best

as can be determined. A current certificate of approval is a certificate which has been applied for not more than 30 days before a unit covered by this section is listed for sale, and received prior to the date of transfer.

Dwelling means a residential structure or residential structure with accompanying accessory uses located within the City. This definition shall not include a rental dwelling or rental unit as contemplated by Sec. 6-3. Rental Inspections, Article I.-In General, Chapter 6 Buildings and Building Regulations, Code of Ordinances, City of Gibraltar, Michigan or Sec. 6-222.-Rental Inspection, Division 3.-General Standards, Article VI.-Property Maintenance, Chapter 6 Buildings and Building Regulations, Code of Ordinances, City of Gibraltar, Michigan.

New dwelling means a residential structure or residential structure with accompanying accessory uses located within the city 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 with or without accompanying actual possession thereof; or
- (2) Shall have charge, possession or control of any dwelling as owner or agent of the owner, or as personal representative, administrator, trustee or conservator of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this section, 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, assignment of purchaser's interest in a land contract, assignment of vendee's interest in a land contract or, in the case of a cooperative, the change of compliance in conjunction with a transfer of an interest or where the end result is a transfer of the dwelling to a new owner except as otherwise provided herein. A transfer does not mean a conveyance by lease, gift, transfer of ownership by inheritance to a devisee or heir at law of the owner of the property or transfer of ownership to a beneficiary of a trust in which the property is titled to the trust upon grantor's death where no bona fide sale is intended in either case and the property is occupied by the person or persons receiving the devise or trust distribution in either case, transfer of a partial interest where the existing owner remains one of the owners of record such as a quit claim deed to add names as joint owners with existing owners, the reversioning of title upon foreclosure of a land contract, assignment of a seller's interest in a land contract or lien foreclosure are not included in this definition. A transfer subject to the terms of a purchase agreement entered into prior to the effective date of this section is not included in this definition.

Whenever the word "dwelling," is used in this article, it shall be construed as though it was followed by the words "or any part thereof."

(C.) - Conflict with other ordinances and laws.

When a provision of this section 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 section 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 section shall be deemed to prevail.

(D.) - Right of entry, access.

- (a) The building official or his/her designee are hereby authorized and directed to make inspections to determine the conditions of dwellings 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 inspection, the building official or his/her designee, are hereby authorized to enter, examine and survey at any reasonable time all dwellings. The owner or occupant of every dwelling or the person in charge thereof, shall give free access to such dwelling at any reasonable time, for the purpose of such inspection, examination and survey. Every occupant of a dwelling shall give the owner thereof, or his agent or employee, access to any part of such dwelling at any reasonable time, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this section or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this section.

(E.) - Inspection and approval requirements.

- (a) It shall be unlawful for an owner to transfer any dwelling new or otherwise which does not have a current certificate of approval issued for said dwelling.
- (b) If the real property is sold without a certificate of approval then the purchaser must sign a preapproval agreement agreeing to correct all violations shown on the inspection report within six months of the date of the preapproval agreement. Preapproval agreements may be used for closing purposes only and do not allow approval of the premises. The purchaser may assume the responsibility of correcting violations by executing a notarized affidavit to this effect and submitting the affidavit and preapproval agreement to the building department prior to closing.
- (c) 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 approval has been determined by the building department.
 - (1) A certificate of approval 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 approval 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.

(F.) - Disclaimer of liability.

(a) A certificate of approval 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 section or the code adopted in this section or the issuance of a certificate of approval.

(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 approval means that the structure is in full compliance with all local codes.

(G.) - Registration; fees.

Any owner intending to transfer a dwelling new or otherwise 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 as established by the city council and shall be the responsibility of the transferor.

(H.) - Period of validity of inspection report; issuance of certificate of approval.

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

(I.)- Failure to comply; penalty.

Violation of this section by any person, firm and/or corporation shall be a misdemeanor punishable as provided under Section 1-7, Chapter 1-General Provisions, Code of Ordinances, City of Gibraltar, Michigan. Each day that the violation continues shall constitute a separate and distinct violation. Nothing in this section constitutes a waiver of the city's right to pursue its remedies at law or in equity with respect to enforcement of the Code of Ordinances, City of Gibraltar, Michigan as it pertains to a dwelling subject to this section.

(J.)- Severability.

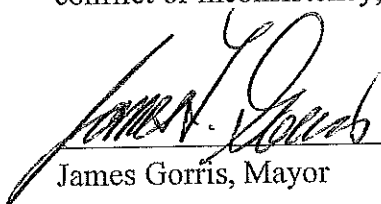
Should any word, sentence, phrase, or any portion of this ordinance be held in a manner invalid by any court of competent jurisdiction, or by any state agency having authority to do so for any reason whatsoever, such holdings shall be construed and limited to such word, sentence, phrase, or any portion of the ordinance held to be so invalid, and shall not be construed as affecting the validity of any of the remaining words, sentences, phrases or portions of this ordinance.


(K.)- Savings Clause.

Nothing in this ordinance or in the code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

(L.)-Conflicting Ordinances.

All prior existing ordinances or parts of existing ordinances adopted by the City of Gibraltar inconsistent or in conflict with the provisions of this ordinance are to the extent of such conflict or inconsistency, hereby expressly repealed.


James Gorris, Mayor


Cynthia Lehr, City Clerk

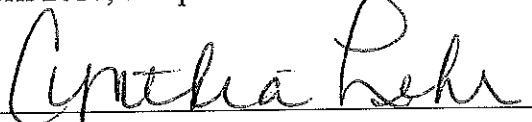
First reading: 4-10-2017

Second reading: 4-24-2017

Published: 5-21-2017

Passed, Approved, and adopted this 24th day of April 2017 and effective July 1, 2017.

I, Cynthia Lehr, the duly elected Clerk of the City of Gibraltar, County of Wayne, State of Michigan, hereby certify that the above is a true and correct copy of an ordinance adopted at a regular council meeting held on the 24th day of April 2017, and published in the News-Herald Newspaper May 21, 2017.


Cynthia Lehr, City Clerk

CITY OF GIBRALTAR
WAYNE COUNTY, MICHIGAN
ORDINANCE NO. 386

AN ORDINANCE TO AMEND SECTION § 6-2.-
ELECTRICAL AND BERM INSPECTION CERTIFICATE
ON SALE OF EXISTING RESIDENCE, ARTILCE I-IN
GENERAL, CHAPTER 6 BUILDINGS AND BUILDING
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DWELLING.

A complete copy of this Ordinance is available in the Office of the
City Clerk.

First Reading: 4-10-17

Second Reading: 4-24-17

Publish: 5-21-17

This ordinance shall be effective July 1, 2017.

Jams F. Gorris, Mayor

Cynthia Lehr, City Clerk