

(12/3/08)  
1st reading \_\_\_\_\_  
2nd reading \_\_\_\_\_  
3rd reading \_\_\_\_\_  
Voted on 12/16/08  
Ayes: 4 Nays: 3  
PASSED  DEFEATED \_\_\_\_\_

**ORDINANCE NO. 2008-22  
(AS AMENDED)**

**AN ORDINANCE  
AMENDING PART THIRTEEN, BUILDING CODE, BY  
ENACTING CHAPTER 1337, POINT-OF-SALE  
INSPECTIONS, TO PROVIDE LIMITED INSPECTIONS OF  
DWELLINGS AND DWELLING UNITS BEFORE  
TRANSFER OF PROPERTY TITLE, AND AMENDING  
CHAPTER 1327 TO PROVIDE A FEE FOR SUCH  
INSPECTION.**

WHEREAS, the Village requires owners of dwellings and dwelling units to maintain functional septic tanks and household sewage treatment systems where sanitary sewer service is not available; and

WHEREAS, the Village also requires all dwellings and dwelling units to have functional smoke and carbon monoxide detection equipment; and

WHEREAS, in order to protect and promote the public health, safety, and general welfare of the Village and its residents, this Council has determined that limited point-of-sale inspections are necessary to inspect smoke detectors, carbon monoxide detectors, household sewage treatment systems and private water systems; and

WHEREAS, this Council finds that such limited inspections are needed so that dwellings and dwelling units are inspected before ownership of such property is transferred.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF  
ORANGE VILLAGE, CUYAHOGA COUNTY, STATE OF OHIO:**

SECTION 1. That existing Title Three, Administration and Enforcement, of Part Thirteen, Building Code, be and the same is hereby amended by the enactment of Chapter 1337, Point-of-Sale Inspections, which shall read and provide, in its entirety, as follows:

**“CHAPTER 1337  
Point-of-Sale Inspections**

**1337.01 DEFINITIONS**

- (a) “CCGHD” means the Cuyahoga County General Health District.
- (b) “Certificate of Compliance” means a Certificate issued by the Building Department evidencing compliance with the provisions of this Chapter.
- (c) “Certificate of Conditional Transfer” means a Certificate issued by the Building Department allowing the transfer of a dwelling or dwelling unit upon the condition that the purchaser comply with the orders contained therein.
- (d) “Dwelling” and “dwelling unit” shall have the same meanings as defined by Section 1140.05 of the Codified Ordinances of the Village.
- (e) “Premises” shall have the same meaning as defined by Section 1140.04 of the Codified Ordinances of the Village.

**1337.02 CERTIFICATE OF COMPLIANCE REQUIRED;  
EXCEPTIONS**

- (a) Except as otherwise provided herein, no person, agent, firm, or corporation shall transfer title to any dwelling or dwelling unit, or the land upon which such building is located, without first applying for and obtaining from the Building Department a Certificate of Compliance or a Certificate of Conditional Transfer.
- (b) In the event a dwelling or dwelling unit is sold at Sheriff’s sale or other court-ordered auction, and no Certificate of Compliance has been issued within one year prior to such sale, the purchaser shall, within thirty (30) days of the date of sale, submit to the Building Department an application for a Certificate of Compliance and shall obtain a Certificate of Compliance from the Building Department within ninety (90) days of the date of sale, unless for good cause shown, the Building Department extends this compliance time. The method of application and inspection shall be as set forth in Section 1337.03.
- (c) This Chapter shall not apply to the individual transfer of any dwelling or dwelling unit through inheritance or gift where no bona fide sale is intended, nor shall it apply to new dwellings or dwelling units which are subject to the requirement of

obtaining a certificate of occupancy, pursuant to Section 1325.08(a) of the Codified Ordinances of the Village.

(d) The owner of a dwelling or dwelling unit shall present a Certificate of Compliance, or an exact copy thereof, or a Certificate of Conditional Transfer, or an exact copy thereof, to the prospective purchaser, grantee, or transferee and, when an escrow has been established, shall deposit in escrow prior to delivery of possession or transfer of title, a copy of the Certificate of Compliance or a copy of the Certificate of Conditional Transfer which has been signed and dated by the purchaser.

**1337.03 APPLICATION; INSPECTION; EFFECTIVE PERIOD**

(a) Application for a Certificate of Compliance required herein shall be made by the owner, or an agent of the owner, upon forms provided by the Building Department.

(b) The Application for the Certificate of Compliance shall inform the applicant that an owner has a constitutional right to refuse entry onto private property by the Village.

(c) If the applicant consents to the inspection(s), the parties shall agree on a mutually convenient day and time for the inspection(s) of the subject premises.

(d) If the applicant refuses to consent to the inspection(s) or consent is otherwise unobtainable, no Village official or employee shall enter the premises except as otherwise provided by law.

(e) Upon receipt of an application for a Certificate of Compliance, the Building Department will forward the application to the Village Fire Department and, where applicable, to the CCGHD. The Village Fire Department will inspect the dwelling or dwelling unit to determine compliance with Chapter 1373 of the Codified Ordinances of the Village. The CCGHD will inspect dwellings or dwelling units with household sewage treatment systems and will collect water samples from the private water system which is used to supply the house with potable water to analyze and determine whether such sample complies with all applicable CCGHD requirements. The entire premises shall be made available for inspection. Such inspection shall be made solely for and on behalf of the Village, and there shall be no liability or responsibility to any present or future owner or occupant of said premises resulting therefrom, except as otherwise provided herein.

(f) If the premises is found in compliance with the Codified Ordinances of the Village and CCGHD household sewage treatment system and private water system requirements, a Certificate of Compliance will be issued by the Building Department.

(g) A Certificate of Compliance shall be valid for a period of one year from its date of issuance.

(h) In case of resale during the one year period, the Certificate of Compliance shall be transferred to any subsequent bona fide purchaser of the premises and shall be valid for the remainder of the one year period.

**1337.04 ORDERS FOR CORRECTION**

(a) If the premises is found not in compliance with the Codified Ordinances of the Village, the Building Department will issue an order for correction of the Village Code violation(s), which violation(s) shall be corrected by the owner of the premises to the satisfaction of the Building Department within ninety (90) days of the inspection, unless, for good cause shown, the Building Department extends this compliance time.

(b) If the premises is found not in compliance with the CCGHD household sewage treatment system or private water system requirements, the CCGHD will issue an order for the correction of any violation(s), which violation(s) shall be corrected by the owner of the premises to the satisfaction of the CCGHD within the time frame established by the CCGHD.

(c) At the request of the owner or agent of the subject premises, upon a re-inspection which confirms that all of the Village Code violation(s) and all of the CCGHD violation(s) have been corrected, the Building Department will issue a Certificate of Compliance.

**1337.05 CERTIFICATE OF CONDITIONAL TRANSFER**

If a dwelling's or dwelling unit's owner or the owner's agent is not able to comply with the order(s) for correction of Village Code violation(s) and/or CCGHD violation(s) before title is to be transferred, or the household sewage treatment system or private water system of the dwelling or dwelling unit cannot be tested, as provided in Section 1337.09 hereof, the owner or agent may request the Building Department to issue a Certificate of Conditional Transfer. Upon such a request, the Building Department may issue a Certificate of Conditional Transfer that will require the purchaser of the premises to comply with the order(s) contained therein within the time set forth therein, which time may be extended by the Building Department or the

CCGHD for good cause shown. This document must be signed and dated by the purchaser in order to be effective.

**1337.06 ESCROW; REQUIRED USE OF CERTIFICATE OF COMPLIANCE/CERTIFICATE OF CONDITIONAL TRANSFER**

(a) The seller shall deposit in escrow, when an escrow has been established, a copy of a Certificate of Compliance or a Certificate of Conditional Transfer which has been signed and dated by the purchaser.

(b) In the event that a dwelling or dwelling unit with a household sewage treatment system is to be sold, transferred or otherwise conveyed and has been unoccupied for a period of thirty (30) or more days, such that a household sewage treatment system evaluation may not be properly conducted, subsection (a) does not apply and the seller must comply with the provisions of Section 1337.09 below.

(c) In the event a dwelling or dwelling unit is sold at Sheriff's sale or other court-ordered auction, subsection (a) does not apply and the purchaser must obtain a Certificate of Compliance from the Building Department as specified in Section 1337.02(b) hereof and, if applicable, comply with Section 1337.09 below.

(d) This Chapter sets forth procedures and requirements that are applicable to the seller and purchaser at the time of a sale of a dwelling or dwelling unit as to Code violations relating to smoke detectors, carbon monoxide detectors, household sewage treatment systems and private water systems. Nothing contained in this Chapter shall be construed as limiting the Village, at any time, from proceeding against the owner of property as defined in the Codified Ordinances for violation(s) of any other ordinances.

**1337.07 ESCROW AGENT OBLIGATION**

No person, agent, firm, or corporation acting in the capacity of an escrow agent in any real estate transaction involving the bona fide sale, transfer, or conveyance of any dwelling or dwelling unit, or land upon which such buildings are located, within Orange Village shall file for record any instrument to transfer title thereto or disburse any funds from such sale until a Certificate of Compliance or a Certificate of Conditional Transfer which has been signed and dated by the purchaser has been deposited with such escrow agent.

**1337.08 RELIANCE ON CERTIFICATE OF COMPLIANCE/  
CERTIFICATE OF CONDITIONAL TRANSFER**

(a) By issuing a Certificate of Compliance, the Village does not insure, warrant, or guarantee to the holder, assignees, or any other interested party that such Certificate contains all violations of the Village Codified Ordinances or laws of the State. Such Certificate is deemed the Building Department's best effort to inform the owners and purchasers of the known conditions of the subject premises relating to compliance with Chapter 1373 of the Codified Ordinances of the Village and, where applicable, compliance with CCGHD household sewage treatment system and private water system requirements, at the time of inspection. A copy of this section, or a digest thereof, shall be contained in each Certificate of Compliance.

(b) By issuing a Certificate of Conditional Transfer under the provisions of this Chapter, the Village is expressly stating some or all of the Village Code violations and, where applicable, CCGHD violations, have not been corrected to the Village's satisfaction and that the purchaser must comply with the orders contained therein. A copy of this section, or a digest thereof, shall be contained in each Certificate of Conditional Transfer.

**1337.09 SPECIAL PROCEDURE FOR VACANT DWELLINGS AND  
DWELLING UNITS WITH HOUSEHOLD SEWAGE  
TREATMENT SYSTEMS**

In the event that a dwelling or dwelling unit to be sold, transferred or otherwise conveyed in a manner requiring a Point-of-Sale inspection as provided in this Chapter has been unoccupied for a period of thirty (30) or more days prior to the date of transfer such that a household sewage treatment system evaluation may not be properly conducted, the following procedure shall apply:

- (a) An application for a Certificate of Compliance shall be filed by the seller upon forms provided by the Building Department before transfer of title and the Building Department shall issue a Certificate of Conditional Transfer stating that the household sewage treatment system must be tested not less than thirty (30) or more than sixty (60) days after occupancy. Compliance with Chapter 1373 shall also be noted thereon, with an Order for Correction if the dwelling or dwelling unit is non-compliant.
- (b) The seller shall provide the purchaser with an exact copy of the Certificate of Conditional transfer that he/she received from the Building Department, and shall obtain the purchaser's signature and the date of signature thereon.

- (c) The purchaser, the Building Department and the CCGHD shall agree on a mutually convenient day and time for the inspection(s) of the subject premises, which inspection(s) shall be conducted after the property has been occupied for a period of no less than thirty (30) but no more than sixty (60) days.
- (d) In the event a dwelling or dwelling unit with a household sewage treatment system is sold at Sheriff's sale or other court-ordered auction, and the property has been vacant for more than thirty (30) days, the following procedure shall apply:
  - (i) Application for a Certificate of Compliance shall be made by the purchaser upon forms provided by the Building Department within thirty (30) days of the date of sale.
  - (ii) The purchaser, the Building Department and the CCGHD shall agree on a mutually convenient day and time for the inspection(s) of the subject premises, which inspection(s) shall be conducted after the property has been occupied for a period of no less than thirty (30) but no more than sixty (60) days.
  - (iii) The purchaser shall obtain a Certificate of Compliance from the Building Department within ninety (90) days of the date of sale, unless for good cause shown, the Building Department extends this compliance time.

**1337.10 FEES**

The inspection fee(s) shall be as established in Chapter 1327. Such fee(s) are in addition to fees established in any other section of the Codified Ordinances of the Village, and amendments thereto. The fee(s) shall be paid at the time the application is filed with the Building Department.

**1337.99 PENALTY**

Any person violating any provision of this Chapter is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.”

SECTION 2. That existing Chapter 1327, Fees and Deposits, be and is hereby amended to include a new Section 1327.09, Point of Sale Inspection Fee, which shall read and provide in its entirety as follows:


**“1327.09 POINT OF SALE INSPECTION FEE.**

The Building Department shall collect a fee of fifty dollars (\$50) for coordinating the point of sale inspection and to defray the cost of the fire department’s inspection of a dwelling or dwelling unit.”

SECTION 3. That the actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in formal action were in meetings held in compliance with all legal requirements, including Chapter 105 of the Codified Ordinances of Orange Village.

SECTION 4. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

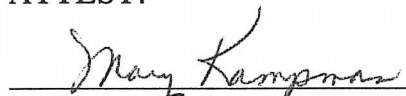
PASSED: 12/10, 2008

  
\_\_\_\_\_  
Council President

Submitted to the Mayor for approval  
on this 10 day of Dec., 2008

Approved by the Mayor this  
10<sup>th</sup> day of December, 2008

ATTEST:

  
\_\_\_\_\_  
Clerk of Council

  
\_\_\_\_\_  
Mayor