

ORDINANCE NO. 15-853

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
FILLMORE, CALIFORNIA, ADDING FILLMORE MUNICIPAL CODE
CHAPTER 5.10 “HUMANE LIVING STANDARDS RESIDENTIAL
PROPERTY INSPECTION PROGRAM”**

Summary: This ordinance requires the preparation of a report by the City before any residence may be sold.

WHEREAS, while protecting home buyers within the City of Fillmore without imposing on private property rights the City Council desires to establish a program to assure parties involved in the transfer of a residence that the home does not have any unpermitted garage conversions, illegal room subdivisions or unpermitted room additions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FILLMORE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. A new chapter 5.10, “Humane Living Standards Residential Property Inspection Program” is hereby added to the Fillmore Municipal Code to read as follows:

“Sections:

- 5.10.010 Authorization and Findings; Effective Date.
- 5.10.020 Definitions.
- 5.10.030 Report Required.
- 5.10.040 Application.
- 5.10.050 Inspection.
- 5.10.060 Delivery of Report.
- 5.10.070 Exceptions.
- 5.10.080 Refunds/Cancellation Fees.
- 5.10.090 Expiration of Report.
- 5.10.100 Repair of Violations Found.
- 5.10.110 Transfer of Responsibility to Repair to the Buyer
- 5.10.120 Penalties.
- 5.10.130 Severability.

5.10.010 Authorization and Findings.

The City Council is authorized to require a report of humane living standards pursuant to the provisions of the Constitution of the State of California and California Government Code Section 38780, et seq. The City Council finds that requiring a report of humane living standards will:

- A. Reduce and prevent violations of building and zoning ordinances by providing the owner of residential property with information as to permitted and illegal construction;
- B. Facilitate enforcement of building and zoning ordinances designed to protect the public health, safety and welfare; and
- C. Provide the City with an opportunity, assuming consent by the property owner, to inspect property in an effort to identify potentially hazardous conditions.

This chapter will become effective as of January 1, 2016 and shall remain in effect until June 30, 2017 at which time this program shall automatically terminate unless otherwise extended by the adoption of an ordinance of the City Council.

5.10.020 Definitions.

“Agreement of sale” means any agreement or written instrument which provides for transfer of ownership of real property including but not limited to land sale contracts, exchange agreements, or lease purchase agreements.

“Owner” means any person, partnership, association, corporation or fiduciary having legal or equitable title in any residential building and the authorized agent thereof.

“Report of humane living standards” or “report” means a report issued by the City describing the zoning of the residential building, the number of dwelling units permitted pursuant to the zoning classification, and other information relevant to the construction of the residential building.

“Residential building” means any structure which contains a dwelling unit as that term is defined and shall include the buildings or structures accessory to the structure which contains the dwelling unit and the real property on which the residential building is located.

5.10.030 Report Required.

The owner of any residential building shall obtain from the City a report of the residential building records upon entering into an agreement of sale. The owner or his or her agent shall file an application for such a report not later than three days after entering into an agreement of sale. The report will be completed by City staff. The report will seek to determine (1) whether the property has been subdivided into multiple dwelling units without permits, (2) whether a garage or storage area has been built without permits and/or converted into a living space without permits, and (3) whether the property has any unpermitted additions.

5.10.040 Application.

The report of humane living standards shall be issued by the City within fourteen (14) days after the owner submits a completed application on the form provided by the City and pays the fee established by resolution of the City Council. The owner shall indicate on the application if consent is given for an inspection of the residential building. If consent is not given by the owner for inspection of the residential building the report shall indicate the owner refused to consent to the inspection. If the report is not issued within the fourteen (14) day period specified above, the transfer may go forward without compliance with this chapter, and the City shall note this in the file for this property.

5.10.050 Inspection.

Upon written consent of the property owner, the City shall cause a physical inspection of the residential building after research of the City records is completed. The report of humane living standards shall include evidence of the Code violations identified in Section 5.10.030 observed during the inspection and shall identify the correction of those violations as determined by any re-inspections of the property.

5.10.060 Delivery of Report.

If the owner refuses to consent to an inspection, a copy of the application noting such refusal shall be delivered by the owner to the other parties or party to the agreement within ten (10) days of filing the application with the City.

The completed report of humane living standards shall be delivered by the owner or his representative to all other parties to the agreement of sale prior to the completion of the transaction. It is the responsibility of the property owner to insure that the other party or parties

to the agreement of sale execute the acknowledgment of receipt on the report of humane living standards and file it with the City within thirty (30) days after completion of the transaction. The filed report shall be proof of compliance with the provisions of this chapter.

5.10.070 Exceptions.

The provisions of this chapter shall not apply to:

- A. The first sale of a residential building which has never been occupied;
- B. Transfers pursuant to Court order, including, but not limited to transfers ordered by a Probate Court in administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, or transfers resulting from a decree for specific performance;
- C. Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary to a deed of trust by a trustor in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale under default in an obligation secured by a mortgage, or transfers by sale under a power of sale after a default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale; transfers by deed in lieu of foreclosure and a transfer by a beneficiary who has acquired the property by foreclosure or deed in lieu of foreclosure;
- D. Transfers by a fiduciary in the course of the administration of a guardianship, conservatorship, or trust;
- E. Transfers from one co-owner to one or more co-owners;
- F. Transfers between spouses resulting from a decree of dissolution of a marriage, a decree of legal separation, or from a property settlement agreement incidental to such decree;
- G. Transfers by the State Controller in the course of administering the unclaimed property law;
- H. Transfers to a governmental entity;
- I. Transactions solely for the purposes of refinancing existing debt secured by the residential building;

J. Transfers by an owner or owners into a family or living trust, where the owner(s) is a beneficiary or trustee of the trust.

5.10.080 Refunds/Cancellation Fees.

A. City shall refund the fee accompanying an application for a report of humane living standards if a written request for refund is made prior to staff review of City records necessary to prepare the report. An administrative charge of twenty percent (20%) of the application fee shall be withheld from any refund granted pursuant to this section. No refunds will be made for a residential building report after the staff review or physical inspection of the property.

B. Owner shall pay an inspection or re-inspection cancellation fee in the amount established by resolution of the City Council. This fee shall also be charged when an inspection or re-inspection appointment is made with the owner and the owner fails to appear at the time of the inspection or cancels the appointment.

5.10.090 Expiration of Report.

A report of humane living standards shall expire one year from the date of its issuance and may not be extended. No refund shall be made when the report is allowed to expire. Any outstanding violations at the time of expiration shall be followed until resolved by appropriate means.

5.10.100 Repair of Violations Found.

Any violation of the Codes identified in Section 5.10.030 of this Code must be repaired by the Owner prior to the transfer of the property and within three (3) months of the City's issuance of the report of human living standards unless (A) unforeseen circumstances require an extension of time to complete the repairs and City staff provides the owner with a writing agreeing to and specifying the duration of an extension or (B) the buyer accepts responsibility for the repairs as described in Section 5.10.110.

5.10.110 Transfer of Responsibility to Repair to the Buyer.

If a buyer agrees to accept the responsibility to make the required corrections, the buyer can deliver a completed Transfer of Responsibility Agreement to the City's Building Department. Upon City's confirmation that the buyer has executed this Agreement the buyer will have three (3) months from the date of the Agreement to repair any noted violations of the Codes identified

in Section 5.10.030 unless unforeseen circumstances require an extension and City staff provides the buyer with a writing agreeing to and specifying the duration of an extension of time to complete the repairs.

5.10.120 Penalties.

A. Any owner violating the provisions of this chapter shall be guilty of an infraction and subject to the penalties, specified in Section 1.08.025 and of this Code as well as the administrative remedies authorized in Chapter 1.09 of this Code.

B. No sale or exchange of any residential building shall be invalidated solely because of the failure of the owner to comply with the provisions of this chapter.

5.10.130 Severability.

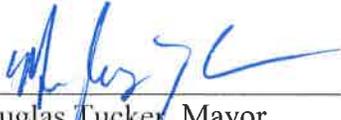
If any section, subsection, sentence, clause or phrase of this chapter is for any reason, held to be invalid or unenforceable, such decision shall not affect the validity or enforceability of the remaining portions of this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid or unenforceable.”

SECTION 2. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. The City Clerk shall cause a summary of this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Fillmore Gazette*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

SECTION 4. This Ordinance shall become effective on the thirty-first (31st) day after its passage.

PASSED AND ADOPTED this 10th day of Nov., 2015.



Douglas Tucker, Mayor

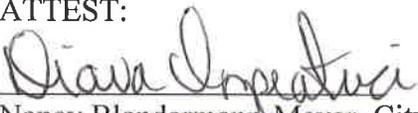
AYES: NEAL, BROGGIE, TUCKER

NOES: McCALL, MINJARES

ABSENT: NONE

ABSTAIN: NONE

ATTEST:



~~Nancy Blendermann-Meyer, City Clerk~~
DIANA IMPEARTRICE, DEPUTY

APPROVED AS TO FORM:



Tiffany J. Israel, City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF FILLMORE)

I, Diana Impeartrice, Deputy City Clerk of the City of Fillmore, do hereby certify that the foregoing Ordinance No. 15-853 was **INTRODUCED AND GIVEN FIRST READING** on the 3rd day of November, 2015, upon the following roll call vote:

AYES: TUCKER, BROGGIE, NEAL
NOES: McCALL
ABSENT: MINJARES
ABSTAIN: NONE

and was **PASSED AND ADOPTED UPON SECOND READING** this 10th day of November, 2015, upon the following roll call vote:

AYES: TUCKER, BROGGIE, NEAL
NOES: McCALL, MINJARES
ABSENT: NONE
ABSTAIN: NONE


DIANA IMPEARTRICE, Deputy City Clerk

RESOLUTION 15-3499

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FILLMORE ESTABLISHING A FEE TO BE COLLECTED FOR INSPECTIONS REQUIRED UNDER THE HUMANE LIVING CONDITIONS PROGRAM

WHEREAS, the City Council of the City of Fillmore approves and adopts fee schedules for various services provided by the City; and

WHEREAS, the City has established the Humane Living Conditions program ("the program"); and

WHEREAS, the program requires the inspection of permits and, if authorized, an inspection of the interior of the home, for all homes within city limits before such home may be sold to ensure that no illegal conversions or room subdivisions have occurred; and

WHEREAS, this inspection is a service provided by City staff; and

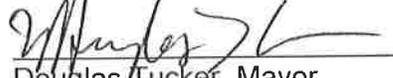
WHEREAS, the City Council finds that a fee for this service should be established and defined.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FILLMORE, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. That the City Council hereby establishes a permit inspection fee in the amount of \$50.00 per inspection.

Section 2. This permit inspection fee shall become effective upon the commencement of the program.

PASSED, APPROVED AND ADOPTED this 10th day of NOV, 2015.


Douglas Tucker, Mayor

ATTEST:


Nancy Blendermann-Meyer, City Clerk
DIANA IMPEARTRICE, DEPUTY
APPROVED AS TO FORM:


Tiffany J. Israel, City Attorney

CITY OF FILLMORE)
COUNTY OF VENTURA)§
STATE OF CALIFORNIA)

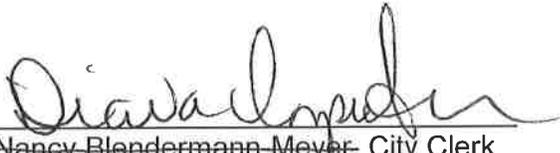
I, Nancy Blondermann-Meyer, City Clerk of the City of Fillmore, California, do hereby certify that the foregoing Resolution No. 15-3499 was duly passed and adopted by the City Council of the City of Fillmore at the regular meeting thereof, held on the 10th day of NOV, 2015, and was signed by the Mayor of the said City, and that the same was passed and adopted by the following vote:

AYES: TUCKER, BROGGIE, NEAL

NOES: McCALL, MINJARES

ABSENT: NONE

ABSTAIN: NONE


~~Nancy Blondermann-Meyer, City Clerk~~
DIANA IMPEARTRICE, DEPUTY



CITY OF FILLMORE
CENTRAL PARK PLAZA
250 Central Avenue
Fillmore, California 93015-1907
(805) 524-3701 • FAX (805) 524-5707

TO: Mayor and City Council

FROM: David W. Rowlands, City Manager

DATE: November 10, 2015

RE: **APPROVE THE SECOND READING OF AN ORDINANCE ADDING FILLMORE MUNICIPAL CODE CHAPTER 5.10 - HUMANE LIVING STANDARDS RESIDENTIAL PROPERTY INSPECTION PROGRAM AND ESTABLISH THE INSPECTION FEE**

REQUEST

That the City Council approve the second reading to adopt the ordinance adding Chapter 5.10 of the Fillmore Municipal Code (FMC) "Humane Living Standards Residential Property Inspection Program".

DISCUSSION

The City Council approved the first reading of the ordinance with a 3-1 vote at its November 3, 2015 City Council meeting. Discussions were also held at the August 25th, September 8th, and September 22nd City Council meetings. **This program would not require homes to come into compliance with current state building codes when they are sold.** The intent of this program is solely to assure all parties to a transaction involving the sale of a residential dwelling within the City that the home does not have any unpermitted garage conversions, illegal room subdivisions or unpermitted room additions. The program would be effective January 1, 2016 and remain in effect for 18 months. It will automatically terminate unless extended by the adoption of a subsequent ordinance extending the program. Staff will provide updates at six month intervals on the program.

As interior inspections will only occur with consent this program is legal. Many cities in California have similar programs.

HUMANE LIVING STANDARDS INSPECTION AND REPORT

Under the proposed program for Fillmore, either the seller's realtor, seller, or seller's agent must submit a completed Humane Living Standards Application on a form provided by the City and pay the required fee which city council has waived for the first eighteen (18) months of the

program. The owner shall indicate on the application if consent is or is not given for an inspection of the interior of the residential building. A final report will be issued within fourteen (14) business days after submission of a completed application (which includes fee payment).

If consent is given, the City will conduct a physical inspection of the property after researching City records for permits. The report shall include any Code violations identified in Section 5.10.030 (unpermitted garage conversions, illegal room subdivisions or unpermitted room additions) that are observed during the inspection and will identify the corrections needed to remedy those violations.

If consent *is not given* by the owner for inspection of the residential building, the report will indicate the owner refused to consent to the inspection as the city cannot require anyone to allow the inspector into their house. A copy of the application noting such refusal, and a summary of the City's record of the permits issued for the property, will be delivered by the owner to the other parties or party to the agreement within ten (10) days.

The completed report must be delivered by the owner or his representative to all other parties to the agreement of sale prior to the completion of the transaction and file it with the City within thirty (30) days after completion of the transaction.

The inspection report is valid for one year from date of completion.

City Reports

Should the City fail to deliver the required report to the seller within 14 days, the seller may transfer the property without waiting for the report.

FISCAL IMPACT

Staff is recommending waiving the fee of fifty (\$50) dollars during the first of eighteen (18) months of the program.

CITY COUNCIL GOAL

Meets city council goal: Code Enforcement/Community Cleanliness/Reduce Overcrowding

- A. Short Term - Explore pre-sale inspection program on properties sold in Fillmore.
- B. Long Term - Eliminate illegally converted garages and room additions.

RECOMMENDATION

Approve second reading of Ordinance No. 15-853 adding Chapter 5.10 to the Fillmore Municipal Code “Humane Living Standards Residential Inspection Program”, adopt Resolution No. 15-3499 establishing a fee for the inspection, and approve the waiver of this inspection fee during the 18 month trial program.

ALTERNATIVES

1. Do not move forward with a pre-sale inspection program.
2. Direct staff to meet with local real estate brokers to obtain feedback and present those findings to City Council.

ATTACHMENTS

1. Ordinance No. 15-853
2. Application Form
3. Resolution No. 15- 3499 establishing the fee

City of Fillmore

HUMANE LIVING STANDARDS INSPECTION

Property Address	
Application Date	
Inspection Date	
Inspection Time	
Inspector Name	

Did the property owner grant permission to enter the property? Yes No

If answer is no stop here.

If answer is yes:

1. Has the property been subdivided into multiple dwellings without permits? Yes No
2. Has any garage or shed been converted into a living space without permits? Yes No
3. Does this property have any unpermitted additions? Yes No

This report must be delivered by the owner (or authorized representative of the owner) to the buyer or transferee of the building prior to the consummation of sale or exchange.

I certify that a copy of the above report was delivered to me prior to the consummation of sale or exchange of the above describe property.

Buyer's Signature _____ Date: _____

Buyer's Signature _____ Date: _____

THIS REPORT EXPIRES IN TWELVE MONTHS FROM DATE OF ISSUANCE