

Agenda Report

August 27, 2018

TO: Honorable Mayor and City Council
FROM: Planning & Community Development Department
SUBJECT: PROPOSED AMENDMENTS TO CHAPTER 14.16 "INSPECTION ORDINANCE" RELATED TO THE OCCUPANCY INSPECTION PROGRAM (OIP)

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed Pasadena Municipal Code Amendments are exempt from environmental review under Section 15061(b)(3) (general rule) of the California Environmental Quality Act ("CEQA");
2. Direct the City Attorney to prepare an ordinance within 60 days amending Pasadena Municipal Code Section 14.16 "Inspection Ordinance" as outlined in the staff report; and
3. Authorize the City Manager to update without further Council action the adopted "Rules and Regulations" which outline the administrative enforcement and implementation of the inspection program.

EXECUTIVE SUMMARY:

On May 7, 2018, the City Council considered staff's proposal of four options respective to modification of the Occupancy Inspection Program (OIP). Options included the following:

- Streamline the OIP, limiting inspection to only major violations and allow self-certification for condominiums;
- Discontinue the OIP and require a City issued property records report and disclosure to buyer;
- Discontinue the OIP altogether;
- Retain the OIP as currently implemented.

During the City Council meeting, public speakers advocating for the discontinuation of the OIP cited the fact that private inspections and disclosures are already occurring, resulting in self-regulation and compliance. However, some members of the Council were not confident that the private inspections and disclosures materialized into the abatement of life and safety code violations, and in some circumstances the buyer and seller mutually benefit from the unpermitted construction.

The City Council discussed the potential of an additional option that could utilize the private inspections that are already taking place and minimize the delays in the sale/transfer of residential properties. The City Council directed staff to explore an additional option and return with a recommendation.

Staff's current proposed recommendation would streamline the program by eliminating required City inspections and replacing them with a self-certification program. This option would require self-certification from the buyer and seller for life and safety violations (i.e. unpermitted additions, conversions, new construction and fire detection/protection equipment). Details are discussed in detail in a later section of this report.

BACKGROUND:

Point of Sale Requirements for Other Cities

The majority of cities in Los Angeles County do not require point-of-sale inspections. Currently, 16 of the 88 cities in Los Angeles County require an inspection of some type at point of sale. Most cities direct housing inspection resources towards rental stock to ensure property owners are providing tenants safe, well maintained housing.

In lieu of proactively inspecting homes at point of sale, other cities have opted to shift the onus to the prospective buyer. This is accomplished by requiring a property records report be disclosed to the buyer prior to the sale or transfer of the property. Figure 1a below summarizes pre-sale requirements from other comparable cities in Los Angeles County. The cities of Santa Monica, Los Angeles and Culver City require a property records report be delivered to the prospective buyer prior to the sale of transfer of the property. The City of Los Angeles requires a self-certification for water conservation devices, seismic gas shut-off valves, window security bars, sliding door glazing and smoke and carbon detectors. None of the cities surveyed below require a self-certification pertaining to unpermitted additions, conversions and new construction.

Figure 1: Summary of Other Municipalities

Municipal Pre-Sale Requirements for Residential Properties			
City	Requirements	Cost	Insp. Req.
Beverly Hills	Self Certification for Smoke Detectors and Water Conservation	\$0	No
Burbank	Self Certification for Water Conservation	\$0	No
Culver City	Property Records Report	\$96	No
Glendale	None	NA	No
Los Angeles	Property Records Report, and Self Certification	\$71	No
Pasadena	Occupancy Inspection Program	\$141	Yes
Santa Monica	Property Records Report	\$317	No
Santa Clarita	None	NA	No

Overview of Current OIP Program

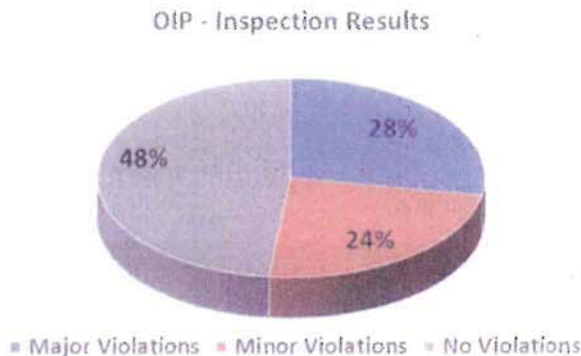
The Code Compliance Division consists of a Housing Section and Property Maintenance/Zoning Enforcement Section. The Housing Section administers the OIP and Quadrennial programs and manages an average of 1,800 OIP (point of sale/transfer) cases per year. Code Compliance Officers inspect all single-family residences and duplex properties (including condominiums/ townhouse) prior to the sale of a property using an expansive checklist of Major and Minor violations (see Figure 2a). Major violations require a re-inspection to verify correction prior to the issuance of a Certificate of Inspection, allowing the sale/transfer of the property. The property owner and buyer also have the option of deferring correction of violations via a Transfer of Responsibility. Minor violations do not require re-inspections, however the property owner is required to self-certify Minor violations have been corrected.

Figure 2a: Major and Minor Violations

Major Violations	Minor Violations	
Illegal additions	Inadequate flooring	Deficient plumbing
Illegal conversions	Inadequate siding	Inadequate water supply
Illegal HVAC/boiler/windows	Deteriorated fireplace	Inoperable water fixtures
Fire hazards	Broken windows	Overgrown vegetation
Structural deficiencies	Inadequate weather prot.	Junk & debris
Cross-connected plumbing	Inadequate fire detection	Inadequate rat proofing
Inadequate heating	Inadequate stairway	Missing covered parking
	Inadequate ventilation	Stagnant water
	Missing/Inop. GFCIs	Inoperable vehicle
	Missing outlet covers	Infestation
	Inoperable gas shut-off	Exposed wiring

The Housing Section also manages approximately 22,000 multi-family rental units (3 or more units) registered in the Quadrennial program. This program requires the inspection of approximately 5,500 units per year. Given that an OIP inspection is in response to a direct customer request and if not conducted will hold up the sale of a home, these inspections are prioritized over the proactive Quadrennial work. Figure 3a below provides a summary of the OIP inspections:

Figure 3a: Summary of OIP Inspections



Based on the discussion at the May 7, 2018 City Council meeting, staff recommends that the existing OIP be transitioned to a self-certification for life and safety violations. Self-certification for life and safety violations will accomplish the following objectives:

- Continue to require abatement of life and safety code violations;
- Eliminate (or significantly reduce) delays in the sale/transfer of a residential property;
- Eliminate redundancies and inefficiencies associated with private and City inspections;
- Continue providing a mechanism to collect sidewalk assessment fees

As proposed, self-certification will replace inspections by Code Compliance Officers and will be required from both the buyer and seller. The seller will be affirming there are no unpermitted additions or conversions (over 120 square feet) and that required fire protection is installed at the property. The buyer will be affirming this information was disclosed. In the event a violation exists, the seller can correct the violation or the buyer can accept responsibility to submit a permit application within six-months and complete respective work within 12 months. The buyer will also provide consent for the City to conduct an inspection of the work within 18 months of self-certification. Properties that have an open/active code violation will not be eligible for self-certification. These properties will require an inspection by a Code Compliance officer (for the same violations noted above that would be included as part of the self-certification).

The self-certification package will be required to include a basic site plan and floorplan that identifies the use of all habitable and non-habitable spaces; and documentation that indicates the square footage of the dwelling. The City will provide a standard template that can be used for the site plan and floorplan (hand-drawn plans will also be acceptable). Professionally developed plans are often obtained by the seller prior to listing and these would also be acceptable. The plans and square footage documentation will serve to update and document property information in the City's land

management system and provide staff the ability to review against City records as needed.

Processing of the self-certification package will primarily consist of a review for completeness. Processing of the application will be available as an over-the-counter transaction in the Permit Center. A webpage dedicated to the OIP will be developed to allow applicants to easily obtain the necessary forms and information (e.g. sidewalk assessment fee amount and code enforcement history). When the self-certification application is reviewed and approved for completeness, the applicant will be provided a Certificate of Completeness for inclusion in escrow documents.

Many local jurisdictions utilize some form of a self-certification processes; however, if an applicant is not comfortable providing self-certification, an optional City inspection will be made available for a fee (currently \$143.00). A Code Compliance Officer will inspect for the same violations as required under the self-certification and will provide a report that will certify whether the subject violations exist. If there are no violations, documentation will be provided. If violations exist, they can be abated by the seller or via self-certification from the buyer agreeing to abate the violations within 12-months.

Other Options

The following other options were presented to the City Council on May 7, 2018:

1) Streamline SFR Inspections to only Life and Safety Violations

This option would retain a requirement for inspection of single family residences and restrict inspection to the following criteria:

- Major violation: Illegal addition, conversion, and new construction over 120 square feet (re-inspection required)
- Major violation: Unpermitted electrical panel replacement/upgrade (re-inspection required)
- Minor violation: Other minor electrical deficiencies (self-certification – declaration under penalty of perjury)
- Minor violation: Missing or improper fire detection (self-certification – declaration under penalty of perjury)

It is recommended to keep condominiums/townhouses in the program but exempt them from the mandatory OIP inspection and require self-certification forms for these units.

2) Discontinue the OIP. Require seller to obtain a property records report and disclose prior to the sale or transfer of the property.

The property records report would assure that purchasers of residential property are furnished with a City record which includes permit history, authorized use, occupancy

and zoning classification of a residential property prior to sale or exchange. The ordering and transmittal of the property records report is typically administered by escrow agents. The report will be prepared by the Code Compliance Division and include the following:

- Street address and legal description of subject property
- Zone classification (including historic status)
- Occupancy as indicated and established by permits of record
- Permit history
- Code Compliance case history (including previous OIPs)
- Land use permits including but not limited to Variances, Conditional Use Permits, and other pertinent entitlement records
- Any special restrictions in use or development which may apply to the subject property including but not limited to recorded deed restrictions

Making the property owner aware of illegal additions, conversions and alterations will not necessarily result in the abatement of such deficiencies. Furthermore, new property owners will become aware of illegal construction that occurred without repercussion, which may promulgate continued illegal construction.

3) Discontinue the OIP

While the OIP was progressive at its inception to promote public safety and enhance community character, the issues that spurred the Program's current iteration have greatly dissipated. In today's real estate market, substandard residential properties are typically improved prior to sale or thereafter. The Code Compliance Division utilizes new resources (e.g. direct complaint reporting, on-line information about permits and code violations, access to the Citizens Service Center etc.) to identify and enforce code violations on residential properties.

4) Retain the OIP without changes

Another option is to retain the OIP as it currently operates and consider raising fees to cover costs for the program. Staff does not recommend retaining the program as is. With today's real estate market where private home inspections are commonplace, and the City's more comprehensive code enforcement practices, a rigorous point of sale inspection program (that addresses items such as peeling paint and missing weather stripping) is not needed. Resources are better served limiting the point of sale program to life/safety violations and ensuring the rental housing stock is maintained for tenants who do not control the quality of their living environment.

The reduction of scope for the Occupancy Inspection Program as described herein will address the most critical life and safety violations while minimizing impacts to the real estate transaction. Staff time can be directed to a more robust Quadrennial Inspection Program of rental properties.

Next Steps

If the Council agrees to the Self-Certification Occupancy Inspection Program, staff would:

1. Prepare revisions to the existing inspection ordinance to streamline the Occupancy Inspection Program as outlined in the staff recommendation; including authorization of the City Manager to prepare updates to the adopted Rules and Regulations which outline the administrative enforcement and implementation of the inspection program; and
2. Return to Council for approval of any necessary fee changes to ensure cost recovery for the program.

COUNCIL POLICY CONSIDERATION:

The proposed amendments further City Council's strategic plan goals to ensure public safety, and to support and promote the quality of life and the local economy. Additionally, it furthers the City's mission to deliver exemplary municipal services.

ENVIRONMENTAL ANALYSIS:

The proposed Pasadena Municipal Code Amendments are exempt from environmental review under Section 15061(b)(3) (general rule) of the California Environmental Quality Act ("CEQA"), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

FISCAL IMPACT:

There is a fiscal impact as a result of the proposed Inspection Ordinance changes. The current OIP program is a subsidized service as the fee does not cover the full cost of staff time to conduct the inspection, conduct necessary research and prepare a final report. If the program is retained staff and it is determined fee adjustments are necessary, staff will return with recommended fee changes.

Respectfully Submitted:



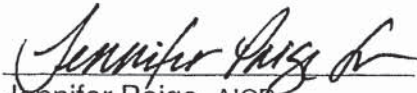
DAVID M. REYES
Director of Planning & Community Development

Prepared by:



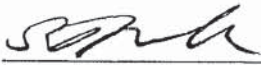
Israel Del Toro
Acting Code Compliance Manager

Reviewed by:



Jennifer Paige, AICP
Deputy Director

Approved by:



STEVE MERMELL
City Manager