

Consideration	<u>7-0</u>
First Reading	<u>7-0</u>
Second Reading	<u> </u>
Third Reading	<u> </u>
Suspend Rules	<u>7-0</u>
Passage	<u>7-0</u>

ORDINANCE NO. 17, 2021

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF EAST LIVERPOOL AND ENACTING CHAPTER 1337B, LAND INSTALLMENT CONTRACTS, OF THE CODIFIED ORDINANCES OF THE CITY OF EAST LIVERPOOL, WHICH IS MORE FULLY DEFINED HEREIN; AND PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY MEASURE IF IT RECEIVES THE AFFIRMATIVE VOTE OF 2/3 (TWO-THIRDS) OF THE MEMBERS OF COUNCIL; OTHERWISE, IT SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THE EARLIEST PERIOD ALLOWED BY LAW.

WHEREAS, while land installment contracts are appropriate in some cases, the City recognizes that due to their tendency to be abused and the absence of local legislation protecting residents from these abuses, there is a need to enact legislation to ensure City residents' rights are protected and that properties subject to land installment contracts are brought into minimum code compliance and do not further contribute to the level of blight in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST LIVERPOOL, COLUMBIANA COUNTY, STATE OF OHIO:

That **Chapter 1337B, Land Installment Contracts**, of the Codified Ordinances of the City of East Liverpool, be and is hereby enacted to read as follows:

1337B.01: DEFINITIONS

For the purpose of this Chapter, Land Installment Contract definitions as used in Chapter 1337B of the East Liverpool are defined and shall have the meaning ascribed to them as hereafter set forth:

- (A) "Land Installment Contract" means an executory agreement which by its terms is not required to be fully performed by one or more of the parties to the agreement within one year of the date of the agreement and under which the vendor agrees to convey title in real property located in this city to the vendee and the vendee agrees to pay the purchase price in installment payments, while the vendor retains title to the property as security for the vendee's obligation. Option contracts for the purchase of real property are not land installment contracts.
- (B) "Property" means real property located in this city improved by virtue of a dwelling having been erected on the real property.
- (C) "Vendor" means any individual, partnership, limited liability corporation, association, trust, or any other group of individuals however organized making a sale of property by means of land installment contract.
- (D) "Vendee" means the person or other legal entity who acquires an interest in property pursuant to a land installment contract, or any legal successor in interest to that person.
- (E) "Legal description" means a description of the property by metes and bounds or lot numbers of a recorded plat including a description of any portion of the property subject to an easement or reservation, if any.
- (F) "Certificate of Property Code Compliance" (CPCC) is a certificate issued by the Planning Department and/ or Health District upon proof that an inspection, pursuant to this Chapter, has been made of the residential property to be conveyed through land installment contract by a **Housing Inspector** and certifying that the property meets basic minimum standards of habitability at the time of inspection.
- (G) "Code Compliance" means any construction or installation, that is in a safe, sanitary and habitable condition and meets the **Codified Ordinances adopted by the City of East Liverpool**.
- (H) "Dwelling" means any enclosed space which is wholly or partly used or intended to be used for living, sleeping, cooking and eating by human occupants, except for mobile homes located in a designated mobile home

park.

(I) " Dwelling Unit" means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking or eating.

(J) "Owner" means any person who, alone or jointly or severally with others:

- (1) Has title of a residential property to be conveyed by land installment contract with or without accompanying actual possession except for mortgagee who have not acquired the property through a foreclosure action or are not in actual possession of the property; or
- (2) Has charge, care or control of any residential property to be conveyed by land installment contract as owner or agent of the owner including, but not limited to a trustee, guardian of the estate of the owner or executor or administrator who with the approval of the probate court has assumed the responsibility of management of the property. Any such person thus representing the actual owner shall be bound to comply with the provisions of Chapter 1337, to the same extent as if he or she was the owner
- (K) "Person" means any individual, firm, corporation, association, partnership, government agency, or other legal entity.
- (L) "Housing Inspector" means East Liverpool Health District inspector further referred to as HI.

(M)"Violation East Liverpool Municipal Housing Code" means the failure to comply with any order issued by a Code Official I.E. Housing Inspector, Zoning Inspector, Planning Director, Health Commissioner, or their designated representative.

1337B.02: REQUIRED PROVISIONS OF LAND INSTALLMENT CONTRACTS

(A) Every land installment contract shall be executed in duplicate, and a copy of the contract shall be provided to the vendor and the vendee. The contract shall contain at least the following provisions:

- (1) The full names and then current mailing addresses of all the parties to the contract;
- (2) The date when the contract was signed by each party;
- (3) A legal description of the property conveyed;
- (4) The contract price of the property conveyed;
- (5) Any charges or fees for services that are includable in the contract separate from the contract price;
- (6) The amount of the vendee's down payment;
- (7) The principal balance owed, which is the sum of the items specified in divisions (A)(4) and (5) of this section less the item specified in division (A)(6) of this section;
- (8) The amount and due date of each installment payment;
- (9) The interest rate on the unpaid balance and the method of computing the rate;
- (10) A statement of any encumbrances against the property conveyed;
- (11) A statement requiring the vendor to deliver a general warranty deed on completion of the contract, or another deed that is available when the vendor is legally unable to deliver a general warranty deed;

- (12) A provision that the vendor provides evidence of title in accordance with the prevailing custom in the area in which the property is located.
- (13) A provision that, if the vendor defaults on any mortgage on the property, the vendee can pay on that mortgage and receive credit on the land installment contract;
- (14) A provision that the vendor shall cause a copy of the contract to be recorded;
- (15) A requirement that the vendee be responsible for the payment of taxes, assessments, and other charges against the property from the date of the contract, unless agreed to the contrary;
- (16) A statement of any pending order of any public agency against the property.

(B) No vendor shall hold a mortgage on property sold by a land installment contract in an amount greater than the balance due under the contract, except a mortgage that covers real property in addition to the property that is the subject of the contract where the vendor has made written disclosure to the vendee of the amount of the mortgage and the release price, if any, attributable to the property in question.

No vendor shall place a mortgage on the property in an amount greater than the balance due on the contract without the consent of vendee.

(C) Within twenty (20) days after a land installment contract has been signed by both the vendor and the vendee, the vendor shall cause a copy of the contract to be recorded as provided in Section 5301.25 of the Ohio Revised Code and a copy of the contract to be delivered to the county auditor.

(D) Every land installment contract shall conform to the formalities required by law for the execution of deeds and mortgages. The vendor of any land installment contract that contains a metes and bounds legal description shall have that description reviewed by the county engineer. The county engineer shall indicate his approval of the description on the contract.

1337B.03: BIENNIAL STATEMENTS FURNISHED TO VENDEE

Every vendor under a land installment contract shall, at least once a year, or on demand of the vendee, but no more than twice a year, furnish a statement to the vendee showing the following:

- (A) The amount credited to principal and interest;
- (B) The balance due. A land contract passbook issued by the vendor or a financial institution shall be sufficient compliance with this section.

1337B.04: VENDEE TO ENFORCE CHAPTER PROVISIONS

Upon the failure of any vendor to comply with this section of Ohio Revised Code, the vendee may enforce such provision in a municipal court, county court, or court of common pleas. Upon the determination of the court that the vendor has to comply with these provisions, the court shall grant appropriate relief.

1337B.05: DEFAULT OF VENDEE

When the vendee of a land installment contract defaults in payment, forfeiture of the interest of the vendee under the contract may be enforced only after the expiration of thirty days from the date of the default. A vendee in default may, prior to the expiration of the thirty-day

Period, avoid the forfeiture of his interest under the contract by making all payments currently due under the contract and by paying any fees or charges for which he is liable under the contract. If such payments are made within the thirty-day period, forfeiture of the interest of the vendee shall not be enforced.

1337B.06: NOTICE OF FORFEITURE

Following expiration of the period of time provided in Section 5313.05 of the Ohio Revised Code, forfeiture of the interest of a vendee in default under a land installment contract shall be initiated by the vendor or by his successor in interest, by serving or causing to be served on the vendee or his successor in interest, if known to the vendor or his successor in interest, a written notice which:

- (A) Reasonably identifies the contract and describes the property covered by it;
- (B) Specifies the terms and conditions of the contract which have not been complied with;
- (C) Notifies the vendee that the contract will stand forfeited unless the vendee performs the terms and conditions of the contract within ten days of the completed service of notice and notifies the vendee to leave the premises.

Such notice shall be served by the vendor or his successor in interest by handing a written copy of the notice to the vendee or his successor in interest in person, or by leaving it at his usual place of abode or at the property which is the subject of the contract or by registered or certified mail by mailing to the last known address of the vendee or his successor in interest.

1337B.07: PROCEEDING FOR FORECLOSURE AND JUDICIAL SALE

If the vendee of a land installment contract has paid in accordance with the terms of the contract for a period of five years or more from the date of the first payment or has paid toward the purchase price a total sum equal to or in excess of twenty percent thereof, the vendor may recover possession of his property only by use of a proceeding for foreclosure and judicial sale of the foreclosed property as provided in Section 2323.07 of the Ohio Revised Code. Such action may be commenced after expiration of the period of time prescribed by sections 5313.05 and 5313.06 of the Ohio Revised Code. In such an action, as between the vendor and vendee, the vendor shall be entitled to proceeds of the sale up to and including the unpaid balance due on the land installment contract.

Chapter 5313 of the Ohio Revised Code does not prevent the vendor or vendee of a land installment contract from commencing a quiet title action to establish the validity of his claim to the property conveyed under a land installment contract nor from bringing an action for unpaid installments.

Chapter 5313 of the Ohio Revised Code does not prevent the vendor and vendee from cancelling their interest in a land installment contract under section 5301.331 of the Ohio Revised Code

1337B.08: ACTION FOR FORFEITURE AND RESTITUTION

If the contract has been in effect for less than five years, in addition to any other remedies provided by law and after the expiration of the periods prescribed by sections 5313.05 and 5313.06 of the Ohio Revised Code, if the vendee is still in default of any payment the vendor

may bring an action for forfeiture of the vendee's rights in the land installment contract and for restitution of his property under Chapter 1923 of the Ohio Revised Code.

When bringing the action under Chapter 1923 of the Ohio Revised Code, the vendor complies with the notice requirement of division (A) of section 1923.04 of the Ohio Revised Code by serving notice pursuant to 5313.06 of the Ohio Revised Code. The court may also grant any other claim arising out of the contract.

1337B.09: INSTRUMENT OF CANCELLATION OF LAND CONTRACT

A judgment for the vendor shall operate to cancel the land installment contract as of a date to be specified by the court. The clerk of the county or municipal court in which such judgment is rendered shall transmit an authenticated copy of such dated judgment to the county recorder of the county in which the property is located.

- (a) The Vendor shall record such cancellation with the Recorder of Columbiana County and serve a copy upon the Planning/Housing Department within twenty (20) days of the cancellation.

The county recorder of such county shall record such authenticated judgment as an instrument of cancellation under Section 5301.331 of the Ohio Revised code. See ORC section below for termination.

ORC 5313.10 Terminating land installment contract is exclusive remedy.

The election of the vendor to terminate the land installment contract by an action under section 5313.07 or 5313.08 of the Revised Code is an exclusive remedy which bars further action on the contract unless the vendee has paid an amount less than the fair rental value plus deterioration or destruction of the property occasioned by the vendee's use. In such case the vendor may recover the difference between the amount paid by the vendee on the contract and the fair rental value of the property plus an amount for the deterioration or destruction of the property occasioned by the vendee's use.

1337B.10: CERTIFICATION OF PROPERTY CODE COMPLIANCE REQUIRED

Prior to the conveying an interest in residential property within the City of East Liverpool by land installment contract, the vendor shall apply for and obtain a Certificate of Property Code Compliance (CPCC), pursuant to this section.

1337B.11: APPLICATION FOR CERTIFICATE OF PROPERTY CODE COMPLIANCE, APPLICATION FOR TEMPORARY CERTIFICATE OF PROPERTY CODE COMPLIANCE, ISSUANCE

- (A) The vendor of the residential property to be conveyed through land installment contract shall apply to the Housing Inspector for the Certificate of Property Code Compliance (CPCC).

A Certificate of Property Code Compliance Inspection shall include an inspection of the building structure (e.g., roof, gutters, siding, etc.) in accordance with City Code as well as an interior inspection to ensure that the residential property is in a safe, sanitary, and habitable condition and meets the Codified Ordinances of The City of East Liverpool. Any Certificate of Property Code Compliance Inspection Report shall be on the form provided by the City of East Liverpool. Minimally, the Certificate of Property Code Compliance Inspection Report shall list individual violations and a rough estimate of the cost to cure each violation or deficiency,

signed by a Housing Inspector. In order to apply, proof of fire and casualty insurance must be provided and maintained with the City of East Liverpool listed as Certificate Holder. Any lapse in fire and casualty insurance will result in revocation of the Certificate of Property Code Compliance. The cost to apply is twenty dollars (\$20.00). Once the home passes inspection the balance of eighty dollars (\$80.00) is owed and Certificate of Property Code Compliance is issued.

- (B) A Temporary Certificate of Property Code compliance shall provide for a ninety (90) day period to complete the repairs for any code violation or deficiency identified in the Certificate of Property Code Compliance Inspection Report. The application for a Temporary Certificate of Property Code Compliance shall be on a form provided by the City of East Liverpool and identify the individual violations and the responsible party to the land installment contract who is responsible to cure each violation or deficiency. Following review and acceptance by the Housing Department, the Housing Inspector will issue a Temporary Certificate of Property Code Compliance.

The vendor will file another Certificate of Property Code Compliance Inspection Report with the Housing Inspector within ninety (90) days of the date of issuance of the Temporary Certificate of Property Code Compliance.

1. The ninety (90) day period may be expanded by one additional ninety (90) day period by the Housing Inspector with the filing of another application for a Temporary Certificate of Property Code Compliance.

- (C) The Certificate of Property Code Compliance shall be issued by the Housing Inspector or Director of Planning to the owner of the real estate interest for the subject real estate, notwithstanding the number of units in the real estate, but only upon one (1) proof of Property Code Compliance Inspection, as provided herein (e.g: filing of inspection report) for each unit, and either two (2) proof of property code compliance or three (3) proof of property code correction of any code deficiency identified in the inspection report.
- (D) The Certificate of Property Code Compliance shall expire three (3) years after the date of issuance. However, the Certificate of Property Code Compliance may be voided by the Housing Inspector or Director of Planning after an investigation and upon proof that the residential property has been fire damaged, vandalized, or house-stripped, or becomes structurally unsound or uninhabitable or in some other way no longer meets the requirements of Chapter 1337B of the East Liverpool City Code or requirements of the State of Ohio.
- (E) Denial or voiding of the Certificate of Property Code Compliance may be appealed to the Board of Housing Appeals pursuant to provisions in East Liverpool Codified Ordinances sections 1339.02 through 1339.03.
- (F) Accepted Certificate of Property Code Compliance Inspection Reports
- in addition to the Certificate of Property Code Compliance Inspection Reports authorized by this section, any inspection conducted by a "Housing Inspector" as defined herein may be accepted as complying with this Section, pursuant to determination by the Housing Inspector.
- (G) Code Deficiencies Due to Vendee Conduct - in those cases where the code deficiencies identified in the Certificate of Property Code Compliance Inspection are demonstrated, to the satisfaction of the Housing Inspector's inspection in his or her investigation of the matter, including providing information to assist in the identification of the vendee.

1337B.12 RECORDING OF LAND INSTALLMENT CONTRACTS

- (A) Before the execution of a land installment contract, the vendor shall deliver to the vendee a copy of the current Certificate of Property Code Compliance Inspection Report and current Certificate of Property Code Compliance or Temporary Certificate of Property Code Compliance.
- (B) Within twenty days of the execution of a land installment contract, the vendor shall record, as provided in Ohio Revised Code 5301.25, the land installment contract installment with the county recorder and deliver a copy to the county auditor.
- (C) Once the Land Installment Contract has been recorded with the Columbiana County Recorder's Office, a copy must also be supplied to the City of East Liverpool Planning Department.

1337B.13 PROHIBITION; NOTICE OF LIABILITY

- (A) No vendor shall convey any interest in a residential property through land installment contract unless a Certificate of Property Code Compliance or Temporary Certificate of Property Code Compliance has been issued, pursuant to this section.
- (B) No vendor shall fail to deliver to the vendee a copy of the current Certificate of Property Code Compliance or Temporary Certificate of Property Code Compliance prior to the execution of the land installment contract.
- (C) No vendor shall fail to record, as provided in Ohio Revised Code 5301.25, the land installment with the county recorder and deliver a copy to the county auditor within twenty days of the execution of a land installment contract.
- (D) In a conveyance of any interest of a residential property through land installment contract sale, no vendor shall knowingly require a vendee, as a condition of the sale, to sign a "quit claim" deed, deeding the property in question to the vendor in the event of a default by the vendee.
- (E) No inspector, as defined in this section, pursuant to this Chapter to conduct a Certificate of Property Code Compliance Inspection shall fail or refuse to file an inspection report within the time required pursuant to an application for a Certificate of Code Compliance.
- (F) In addition to any other penalty and/ or notice of violation under the Codified Ordinance of the City of East Liverpool, the Housing Inspector, Zoning Inspector, Health Inspector or his/her designee may issue a violation to the vendor of the residential property who conveys any interest in a residential property through land installment contract, found to be in violation of the East Liverpool Health or Property Maintenance Code of the City of East Liverpool without the dwelling unit(s) having been issued a Certificate of Property Code Compliance, Temporary Certificate of Property Code Compliance said notice shall describe the location and nature of the violation, the time and date it was observed, and the fine assessed to the owner. No notice of violation may be issued to an owner more than once during any seventy-two (72) hour period for the same

violation at the same premises.

- (1) The Notice of Violation provided for by this section shall be served upon the owner by certified United States mail return receipt requested or by personal service. In the event of failure of certified mail service on the basis that the return receipt is endorsed "unclaimed" or "refused", service shall be perfected by sending the notice to the address where certified mail was attempted by regular mail. Postage prepaid with a certificate of mailing.
- (2) The following rebuttable presumption shall apply to violations of this section.
 - (A) The owner of the premises whose name is listed in the records of the Columbiana County Auditor is presumed, for purposes of this section, to be the owner of said premises.
- (3) Any owner charged with a Notice of Violation may appeal said notice as provided by Section 1337B.13. Failure to file an appeal shall constitute a waiver of the right to contest the Notice and shall constitute an admission of the Notice of Violation.
 - (G) Any vendor of residential property who conveys any interest in a residential property by land installment contract and is found to be in violation of the East Liverpool Health and/or Property Maintenance Code and located in the City of East Liverpool without the dwelling unit(s) having been issued a Certificate of Property Code Compliance, Temporary Certificate of Property Code Compliance or fails to comply with this Chapter, shall be fined two hundred fifty dollars (\$250.00). A second violation within two years by an owner shall result in a fine of five hundred dollars (\$500.00). A third and any subsequent violation by an owner within two years shall result in a fine of one thousand dollars (\$1,000.00).
 - (H) Payment of any fine authorized under this code section may be enforced by means of a civil action or any other method provided for by the Ohio Revised Code or the East Liverpool Municipal Code.

1337B.14: SYSTEMATIC INSPECTIONS

- (a) Nothing in this Chapter shall be construed as preventing the Housing Inspector from conducting a program of systematic inspections of dwelling unit(s) as authorized by East Liverpool Municipal Code. Any code deficiencies found during such systematic inspections shall be remedied in accordance with the provisions of this Chapter and all procedures contained in this Chapter, including the payment of fees, shall apply to such systematic inspections.
- (b) When a complaint or a systematic inspection is performed on a building with multiple dwelling units, the Housing Inspector shall use his or her discretion as to whether additional dwelling unit(s) in the building are to be inspected pursuant to this Regulation.

1337B.15: VENDEE'S REMEDIES FOR NON-COMPLIANCE

If a vendor fails to comply with this Chapter, the vendee may rescind the land installment contract and may recover his/her actual damages and attorney's fees and costs.

1337B.16: SUSPENSIONS AND REINSTATEMENTS

Failure to comply with any provision of Chapter 1337B shall result the suspension of the Vendor's CPCC. The Vendor's CPCC may be reinstated only upon application as set forth in Section 1337B.10.

1337B.17: APPEALS

Any property owner or agent directly affected by a decision of the Housing Inspector which results in the denial of the issuance of a CPCC, or the suspension or revocation of a CPCC shall be permitted to file with the Housing Inspector, an appeal in writing to the Board of Housing Appeals. Such appeal shall be limited to:

1. A claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted,
2. The provisions of this code do not fully apply, and/or
3. The requirements of this code are adequately satisfied by other means.

1337B.18: REAL ESTATE TAXES


No CPCC shall be issued, allowed to be maintained, or renewed unless the real estate taxes for the property are paid current or tax payment contract is enacted with Columbiana County.

1337B.99: PENALTY

(a) Whoever fails to comply with this Chapter, pursuant to this section, shall be guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree for a second subsequent offense or a misdemeanor of the first degree for a third subsequent offense.

(b) All fines for citations and non-compliance fees issued in accordance with this Chapter shall be deposited in the General Fund, which fines, and fees shall be used by the Planning/Housing Departments for purposes **consistent** with this chapter, with the exception of court costs which will be deposited as required by law. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity to **enact Chapter 1337B, Land Installment Contracts, of the Codified Ordinances of the City of East Liverpool**, as above described; and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to the legislative authority, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed this 5 day of April, 2021


JOHN TORMA, President of Council

APPROVED AS TO FORM:

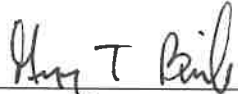
Charles L. Payne
Law Director

Attest:



PATRICK SCAFIDE, Clerk of Council

Approved by the Mayor this 6th day of April, 2021.



GREGORY T. BRICKER, Mayor

Requested by: Councilman John Mercer
Sponsored by: Licensing & Economic Development Committee
Prepared by: Charles L. Payne, Law Director