

**TOWNSHIP OF HILLSIDE  
COUNTY OF UNION, STATE OF NEW JERSEY**

**ORDINANCE NUMBER O-18-10**

**ORDINANCE AMENDING THE TOWNSHIP OF HILLSIDE TOWNSHIP CODE AT  
CHAPTER 188 (LAND USE)**

**WHEREAS**, the Township of Hillside has a compelling interest to ensure the habitability of buildings, premises, apartments, and any other dwelling units being leased in the municipality; and

**WHEREAS**, the Township of Hillside desires to amend and supplement Chapter 188 (Land Use) Article II, §188-45

**NOW THEREFORE BE IT ORDAINED**, by the Township Council of the Township of Hillside, County of Union, State of New Jersey, that:

**The Code of the Township of Hillside, Chapter 188 (Land Use), Article II (Zoning) §188-45 is hereby amended and supplemented as follows:**

**§ 188-45.1 Certificate of Habitability**

**A. Certificate of Habitability Required**

**It shall henceforth be unlawful for any property owner, landlord or tenant to rent, lease or in any way deliver up for occupancy any building, premises, apartment or any other dwelling unit until a certificate of habitability to the effect that said building, premises, apartment or any other dwelling unit conforms to the provisions of this chapter shall have been issued by the Construction Official or his designee. In such case, it shall be the duty of the Construction Official or his designee to issue a certificate of habitability upon inspection and approval by a Code Enforcement Officer within 30 days after a written request for such certificate shall have been filed with the Building Department by a property owner, landlord or tenant of a building, premises, apartment or any other dwelling unit. Such certificate of habitability shall be effective for a period of time that the premises again becomes occupied and for as long as occupancy remains unchanged. If no inspection has been made within 30 days after a written request for same, then a temporary certificate of habitability shall be deemed to have been issued.**

**B. Fee for Certificate of Habitability**

**The fee for the issuance of a certificate of habitability shall be \$100, except in the case of new developments and substantially rehabilitated units of 10 or more, for which the fee for issuance of a certificate of habitability shall be \$75. The first re-inspection shall be no charge. The fee for the second and subsequent re-inspections shall be \$75.**

### **C. Temporary Certificate of Habitability**

Upon inspection of any building, premises, apartment or any other dwelling unit, the Code Enforcement Officer, upon finding that the dwelling unit contains only minor violations of this chapter which are not inimical to the health, safety and welfare of a prospective tenant, may cause to be issued a temporary certificate of habitability conditioned upon the property owner's, landlord's or tenant's complying with the provisions of this chapter within a reasonable period of time not to exceed 30 days from the issuance of such certificate.

### **D. Certificates of Habitability: contents, required signatures, failure to obtain, unlawful occupancy**

**1. Contents.** Certificates of habitability and temporary certificates of habitability issued pursuant to § 188-45.1 of this chapter shall contain the maximum number of persons by which the dwelling unit involved may be occupied based on the following:

- (a) Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the base of total habitable room area.**
- (b) Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.**

**2. Required signatures.** The owner of the premises for which a certificate of habitability is issued, or his authorized representative, must sign said certificate of habitability or temporary certificate of habitability.

**3. Failure to obtain.** Upon the renting of the premises involved, the owner or his authorized representative shall have a copy of the certificate of habitability signed by the tenant, give a copy of the certificate of habitability or temporary certificate of habitability to the tenant and return a signed copy to the Construction Official. An owner or his authorized agent may not rent, offer to rent or offer to permit occupancy of any premises without obtaining the required signature. The tenant's failure to sign the certificate of habitability or temporary certificate of habitability shall be prima facie evidence of violation of this article by the tenant, and the tenant shall be subject to all penalties herein.

**4. Unlawful occupancy.** If the provisions of this section are not met and the Township of Hillside is subsequently required to relocate the tenants of the dwelling unit involved, the

owner or the tenant, or both, shall be liable for all costs of relocation and shall further be liable for any payments the Township of Hillside may be required to make to the relocated tenant under the applicable laws of the United States of America or the State of New Jersey.

**E. Definitions.** For the purposes of this section, the following definitions shall apply:

**CERTIFICATE OF HABITABILITY**

A written certification issued by the Construction Official or his designee that a dwelling unit is in substantial compliance with § 188-45.1 of this Code.

**MINOR VIOLATION**

A violation of the housing or other codes of the Township of Hillside which is not a substantial violation.

**OWNER OF REAL PROPERTY**

The owner, landlord or managing agent of any residential premises, except that this section shall not apply to single family residences occupied by the owner thereof.

**SUBSTANTIAL VIOLATION**

A violation of the housing or other codes of the Township of Hillside which renders the dwelling unit hazardous to health or safety, such as exposed or deteriorated electrical wiring or fixtures, inoperable plumbing, lack of smoke detectors, lack of second means of egress, lack of security locks and bulging or severely cracked ceilings.

**F. Responsibility of Construction Official.** The Construction Official shall make available for inspection by the public at his office a clear written summary of the housing standards upon which the issuance of a certificate of habitability shall be based.

**G. Appeals.** Any person aggrieved by a denial of a temporary or permanent certificate of habitability may appeal in writing to the Business Administrator, who shall hear the appeal, render a decision thereon and file his decision with a written statement of the reasons therefore with the Construction Official not later than five business days following the submission of the appeal. A copy of the decision shall be mailed by ordinary first-class mail to the appellant. Failure to hear an appeal and render and file a decision thereon within the time limits prescribed herein shall be deemed a reversal of the decision of said Construction Official, and a temporary or permanent certificate of habitability, as the case may be, shall be issued by the Construction Official or his designee for said dwelling unit forthwith.

**H. Violations and penalties.** Any person found guilty of violating any provision of this subsection § 188-45.1, shall for a first offense be subject to a fine of \$250, with court costs, and mandatory court appearance; shall for a second offense be subject to a fine of not less than \$500

nor more than \$1,000, with court costs and mandatory court appearance; and shall for a third or subsequent offense be subject to a fine of not less than \$1,000 nor more than \$2,000, with court costs and mandatory court appearance; or be subject to imprisonment for a term not exceeding 90 days, or both. Each violation, and each day a violation is committed or permitted to continue, shall constitute a separate violation and shall be punishable as such.

**AND BE IT FURTHER ORDAINED** that all provisions of the Township of Hillside Code that are inconsistent with the provisions of this ordinance are repealed to the extent of such inconsistency.

Severability. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, void, or ineffective for any cause or reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

Conflicts. This Ordinance is not meant to repeal any provisions of the Code, other than those specified herein above, but to add to its requirements, and all Ordinances or parts thereof inconsistent or in conflict with the provisions of this Ordinance are repealed only to the extent of such inconsistency or conflict.

This Ordinance shall take effect 20 days after final passage and publication as provided by law.

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**First Reading and Introduction: July 24, 2018**

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
		Cook	X				
		DeAugustine	X				
		Epps	X				
	X	Mobley	X				
		Mondella	X				
X		Freedman, CVP	X				
		Hyatt, CP	X				

**Public Hearing: August 28, 2018**

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
X		Cook	X				
	X	DeAugustine	X				
		Epps	X				
		Mobley	X				
		Mondella	X				
		Freedman, CVP	X				
		Hyatt, CP	X				

**Final Adoption: August 28, 2018**


MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
		Cook	X				
	X	DeAugustine	X				
		Epps	X				
		Mobley	X				
X		Mondella	X				
		Freedman, CVP	X				
		Hyatt, CP	X				

  
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Andrea Hyatt, Council President

ATTEST:

  
\_\_\_\_\_  
Lorraine N. Messiah, Acting Township Clerk

Approved: ✓

  
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Dahlia O. Vertreese, Mayor

9/11/18  
Date

Vetoed: \_\_\_\_\_

Returned to the Township Clerk with the following statement of objections:

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