

**THE TOWNSHIP OF EWING
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO. 23-05

1st Reading 2-28-23 Date to Mayor _____
 2nd Reading & Public Hearing _____ Date Returned _____
 Date Adopted: _____ Date Resubmitted to Council _____
 _____ Approved as to Form of Legality
 Effective Date: _____
 _____ Township Attorney

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, CHAPTER 114 BUILDING CONSTRUCTION ARTICLE II CERTIFICATES OF OCCUPANCY AND CHAPTER 114 BUILDING CONSTRUCTION ARTICLE III PROPERTY MAINTENANCE CODE

First Reading

MEMBER	AYE	NAY	ABSENT	ABSTAIN	MOVE	SECOND
Baxter	X					
Keyes-Maloney	X				X	
Schroth	X					X
Steward	X					
Wollert	X					

Second Reading

MEMBER	AYE	NAY	ABSENT	ABSTAIN	MOVE	SECOND
Baxter						
Keyes-Maloney						
Schroth						
Steward						
Wollert						

By _____ Date _____ Accepted _____ Rejected _____
 Mayor

Reconsidered
 By Council _____ Override Vote YEA _____ NAY _____

 President of the Council

 Municipal Clerk

**THE TOWNSHIP OF EWING
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO: 23-05

**AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE
TOWNSHIP OF EWING IN THE COUNTY OF MERCER, CHAPTER 114 BUILDING
CONSTRUCTION ARTICLE II CERTIFICATES OF OCCUPANCY AND CHAPTER
114 BUILDING CONSTRUCTION ARTICLE III PROPERTY MAINTENANCE CODE**

WHEREAS, the Township of Ewing (“Township”) has a duty to ensure properties within the Township are built and maintained as safely as possible to protect the health and safety of residents; and

WHEREAS, the Township is desirous of amending Chapter 114 of the General Ordinances of the Township of Ewing to update various provisions to make it consistent with current practice and law, and to incorporate necessary changes regarding the International Property Maintenance Code; and

WHEREAS, the Township’s Construction Official recommends the above-referenced changes and has determined that said amendments are in the best interest of the Township and its residents; and

WHEREAS, the Mayor and the Council of the Township have determined that certain amendments to Chapter 114 “Building and Construction”, Article II entitled “Certificates of Occupancy” and Article III entitled “Property Maintenance Code” are necessary to protect the health, safety, and welfare of the residents of the Township; and

WHEREAS, in all other Chapter 114 entitled “Building and Construction”, Article II entitled “Certificates of Occupancy” and Article III entitled “Property Maintenance Code” shall remain in full force and effect; and

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Township of Ewing, County of Mercer that the Code of the Township of Ewing be amended as follows:

Section 1 Chapter 114, BUILDING CONSTRUCTION Article II CERTIFICATES OF OCCUPANCY is hereby amended as follows:

§ 114-4 INSPECTION.

- A. The owner of real estate, set forth above, shall apply for the issuance of a certificate of occupancy on forms to be provided by the Construction Official. The application shall at least contain the name of the owner and the name of the person signing the notice and the relationship to the owner; shall describe the property or portion thereof to be transferred by street address or in such other manner as may reasonably be required by the Construction Official; and shall be accompanied by the fee set forth in Chapter 172 of this Code.
- B. Conduct of inspection.
- (1) Within 15 working days of receipt of the application and fee, the Construction Official shall make an inspection and issue a written inspection certificate, in duplicate, stating: [Amended 7-24-2001 by Ord. No. 01-22]
- (a) That an inspection of the premises has been made, specifying any violations of any applicable ordinance, statute or code relating to the premises, including the ~~1998~~ most current edition of the International Property Maintenance Code as adopted by the Township of Ewing;
- (b) If there are no such violations, stating that there are none; or
- (c) That an inspection is not required because of the provisions below

- (2) Each certificate shall be dated, and the Construction Official shall retain a duplicate copy.
 - (3) If the inspection is not conducted within the time specified above, the owner shall be under no further obligation.
 - (4) By such inspection, the Township of Ewing, its agents, servants, employees or officers do not guarantee quality or soundness of any property or structure, and it is not and will not be liable for any act or omission in connection with an inspection or failure to inspect, nor is the Township, its agents, servants, employees or officers, in any way involved in any contractual relationship between owners, tenants and/or purchasers. Such inspections are conducted only to determine compliance with established codes as may be ascertained by reasonable observation.
 - (5) This article shall not be construed to prohibit a transfer of property but shall be construed to prohibit occupancy without the issuance of a certificate of occupancy or temporary certificate of occupancy, or which is otherwise exempt as provided in this article.
- C. If an inspection has been made and a certificate of occupancy issued within one year prior to the date of receipt of the completed application, or if a certificate of occupancy has been issued for the premises within one year prior to the date of receipt of such completed application, the Construction Official may, but is not required to, make an inspection.
- D. Prior to completing the sale, rental or other transfer, the owner shall inform any transferee(s) of any violations reported by the Construction Official and shall give the transferee(s) a copy of the certificate of inspection.
- (1) All violations shall be corrected prior to completing the sale, rental or other transfer, except as otherwise provided for in this article.
 - (2) Failure of the owner to comply with this provision does not relieve the transferee(s) from the obligations imposed by this article or any of the relevant statutes, ordinances or codes.
- E. Any owner who violates this article by failing to apply for a certificate of occupancy under this article or by failing to inform the transferee(s) of violations shall be liable, upon conviction of such violation, to forfeit and pay a penalty not to exceed \$500 or 90 days' imprisonment or both, in the discretion of the court, for every such violation.
- F. Upon correction of all violations noted in the inspection certificate, the Construction Official shall issue a certificate of occupancy. In the case of a sale or other transfer of title to residential property or the sale, rental or other transfer of nonresidential property or a part thereof, a temporary certificate of occupancy may be issued, in the discretion of the Construction Official, when the inspection reveals a departure from the most current edition of the 1998 International Property Maintenance Code but such departure leaves the housing space in substantial compliance with such code; that is, where there is no serious or immediate threat to health, safety or welfare and when the prospective transferee of title or of nonresidential property or a part thereof agrees to assume the violations. Such assumption shall be in writing, signed by the owner and the transferee. [Amended 7-24-2001 by Ord. No. 01-22]
- G. Exceptions:
- (1) No inspection under this article shall be required in the case of the sale, rental or other transfer of unimproved real estate.
 - (2) Where no immediate occupancy is contemplated in a residential property transfer, an inspection under this article shall not be required; however, prior to residential occupancy, an inspection under this article or as required by the New Jersey Uniform Construction Code shall be conducted.
 - (3) Any nonresidential property for which a certificate of occupancy is required under the New Jersey Uniform Construction Code prior to occupancy shall be exempt from this section.

- (4) The provisions of this article shall not apply to hotels and multiple dwelling units governed by the New Jersey Hotel and Multiple Dwelling Law or those residential multifamily dwelling units governed by Chapter 230, Article II, of the Code of the Township of Ewing.

H. Any owner who desires to appeal from a certificate of occupancy may file an appeal pursuant to the most current edition of the 1998 International Property Maintenance Code. [Amended 5-8-2001 by Ord. No. 01-13; 7-24-2001 by Ord. No. 01-22]

- (1) Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this code or of any rule or regulation adopted pursuant thereto shall have the right to request and shall be granted a hearing on the matter before the Board, provided that such person shall file, in the office of the Board, a written petition requesting such hearing and containing a statement of the grounds therefor within 20 days after the day the notice was served. The Board shall meet within 21 days of the day the request for a hearing has been filed in the office of the Board. The aggrieved party shall appear and present evidence to the Board regarding the notice which was issued in connection with the enforcement of any provision of this code or of any rule or regulation adopted pursuant thereto. The Construction Official or his designee shall also appear and present evidence regarding said notice.
- (2) In order to protect existing structures in the Township by vigorous enforcement of the provisions of this code, there shall be and is hereby created a Code Appeals Board, hereafter referred to as the Board, consisting of five members who shall be appointed by the Mayor with the advice and consent of Council.
- (3) The Board shall consist of one elected official of the Township; one volunteer fireman; one real estate agent; two citizens, one of whom shall be the following: a licensed professional engineer, an architect, a builder or a superintendent of building construction. No more than one member of the Board shall be of the specified professions. The Mayor shall appoint an alternate member of such Board in addition to the five members above provided for, who shall act with full power only when a member of the Board refuses to vote because of a conflict of interest or when a member is absent. The Mayor shall designate one member of the Board to act as Secretary to the Board.
- (4) The Board shall hear all appeals relative to the enforcement of this code and, by a concurring vote of the majority of its members, shall reverse or affirm, wholly or partly, or modify the decision appealed from and shall make such order or determination as in its opinion ought to be made. Failure to secure such concurring votes shall be deemed a confirmation of the decision of the Construction Official.
- (5) A member of the Board shall not participate in any hearings or vote on any appeal in which that member has a direct or indirect financial interest or is engaged as a contractor or is engaged in the preparation of plans and specifications or in which that member has any personal interest.
- (6) The Secretary of the Board shall keep a record of each meeting so that the record shows clearly the basis for each decision made by the Board. An aggrieved party may provide for transcription of the proceedings at his/her own cost and shall provide a copy of said transcript to the Board, at no cost to the Board.
- (7) An appeal from the Board shall be to the Ewing Township Council within 20 days of the decision from the Board. The Ewing Township Council shall schedule the appeal to be heard at the next regularly scheduled meeting of the Council

Section 2 Chapter 114, BUILDING CONSTRUCTION Article III PROPERTY MAINTENANCE is hereby amended as follows:

§ 114-7 ADOPTION OF STANDARDS BY REFERENCE; PLUMBING AND MECHANICAL AMENDMENTS.

The Township of Ewing adopts the most current edition of the 1998 International Property Maintenance Code, with the following additions, in place of the 1996 BOCA National Property Maintenance Code:

Chapter 5

Plumbing Facilities and Fixture Requirements

Section 508

Hot Water

508.1. Hot Water. Hot water is not to exceed 140°.

Chapter 6

Mechanical and Electrical Requirements

Section 602

Heating Facilities

602.3. Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitories or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 1 to May 1 to maintain a temperature of not less than 68° F. (18° C.) in all habitable rooms, bathrooms, and toilet rooms.

Section 604

Electrical Facilities

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. Every dwelling shall be served by a main service that is not less than 60 amperes, three wires. If it is determined that a 60 amp service is not sufficient for the electrical load, a minimum of 100 amp service is to be installed.

§ 114-8 USE OF ROOFTOP; VIOLATIONS AND PENALTIES.

It shall be unlawful to inhabit or utilize any rooftop in a manner inconsistent with the most current edition of the International Property Maintenance Code, as adopted by the Township. Any person violating the provisions of this article shall be liable to the penalties set forth in Chapter

Section 3 Severability. Should any section, clause, sentence, phrase or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

Section 4 Repealer. All prior ordinances or parts of the same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 5 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.