

**BOROUGH OF OLD TAPPAN
ORDINANCE NO. 1237-23**

**AN ORDINANCE REPEALING AND REPLACING ORDINANCE 100-14 TO BE
TITLED “CERTIFICATE OF OCCUPANCY, RESALE AND/OR RENTAL
CERTIFICATES”**

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Old Tappan, County of Bergen, State of New Jersey, as follows:

Section 1. Ordinance 100-14 is hereby repealed in its entirety and replaced by the following:

§100-14 Certificate of occupancy, resale and/or rental certificates.

A. Certificate of occupancy, resale and/or rental certificates are required before occupancy. No person shall occupy, rent, lease, sublet, transfer title to or suffer the occupancy of, the letting of or allow any person to live in or upon, inhabit as a tenant or tenants or occupants or to occupy as a new owner or cotenants or co-owner any dwelling house or houses or dwelling units, within the confines of the Borough of Old Tappan, unless and until that person shall have first obtained from the Construction Official or his agent of the Borough of Old Tappan a certificate of occupancy, resale and/or rental certificate

B. New occupancy or reoccupancy. The provisions of Subsection **A** shall apply with equal force and effect to any and all new and additional lettings, tenancies, transfers of title of premises or any part thereof and occupancies of any dwelling house, houses, dwelling units or any nonresidential building within the Borough, upon vacating of same, whether the reoccupancy is by virtue of transfer of title of the dwelling house, houses, dwelling unit, dwelling units or nonresidential building or by virtue of rental of any of the foregoing or by virtue of any other action not specifically herein enumerated. The foregoing requirements for Subsections **A** and **B** shall be effective whether the occupancy, rental, lease or transfer of title is temporary, seasonal or permanent or whether or not for a consideration. No rental shall be less than 30 days and all residential and nonresidential properties are subject to the enforcement of the most current edition of the (ICC) International Property Maintenance Code

C. When required.

Residential structures.

(1) When required.

No owner or operator of a single-family or a multiple-family dwelling shall permit the occupancy of a dwelling unit by a tenant not previously occupying said dwelling unit without first obtaining an inspection certificate from the Construction Official or his

agent. All inspections required hereunder shall be made within 10 days after receipt of a written request from the owner or operator.

(2) When not required.

No inspection certificate shall be required:

(a) For 6 months after issuance of a certificate of occupancy for a new dwelling unit, unless the dwelling unit is sold within the twelve-month period.

(b) When an existing tenant remains in the same dwelling unit under a new lease or as a holdover.

(3) Resale only certificates may be issued provided that a notarized letter is received from a purchaser's attorney that the dwelling will not be occupied until an inspection certificate pursuant to this chapter or a certificate of occupancy has been issued.

D. Commercial structures.

(1) When required.

No owner or operator of a commercial structure shall permit the occupancy of a commercial structure by a tenant not previously occupying said commercial structure without first obtaining an inspection certificate from the Construction Official or his agent. All inspections required hereunder shall be made within 10 days after receipt of a written request from the owner or operator.

(2) When not required.

No inspection certificate shall be required:

(a) For 6 months after issuance of a certificate of occupancy for a new commercial structure, unless the commercial structure is sold within the twelve-month period.

(b) When an existing tenant remains in the same commercial structure under a new lease or as a holdover.

§100-14.1 Definitions; applicability.

(1) As used in this section, the following terms shall have the meanings indicated:

DWELLING HOUSE AND UNIT

Includes but is not limited to any one-family dwelling, all apartments, or portions of apartments in any apartment house or apartment structure and any rooms in a motel, hotel or other place of public accommodation. The term shall also include a unit in a condominium or cooperative.

PERSON

Any individual, partnership, firm, corporation, holding company, foreign corporation, limited-liability company or any other entity, whether or not incorporated in this or any other state or country, including any real estate

broker or real estate agent or any representative, servant or employee of the foregoing.

OCCUPANT

As used in this section, the word “occupant” refers to any person or entity that desires to act as licensor, landlord, sublandlord, lessor, sublessor, or who in any way desires to allow further occupancy of any portion of real property for remuneration of any kind.

§ 100-14.2 Applicability, exemptions

A. This section shall apply to each and every dwelling house as aforesaid and to each and every dwelling unit as aforesaid within the Borough and shall include all single and multiple dwellings and premises on which a building is located and is used for human occupancy.

B. Rooming houses exempt. Licensed rooming houses that are annually examined and licensed by the Township shall be exempt from the rental portions of this section only, provided that they keep an accurate register giving true names and addresses of all persons occupying any rooms for any period of time.

C. Effect on other municipal ordinances. Nothing contained in this section shall exempt any of the dwellings or buildings or parts of buildings covered by this section from full and complete compliance with any other provisions of any other ordinance or ordinances of the Borough of Old Tappan, as the same may be applicable.

§ 100-14.3 Application for certificate.

(1) Prior to the rental, transfer of title or occupancy of any dwelling house or houses or any dwelling unit or units provided for in this section, application for a certificate of occupancy, resale and/or rental certificates permitting occupancy shall be made, in writing, to the Construction Official or his agent of the Borough by that person, persons, firm or corporation, agent, servant or representative, as set forth in Subsection **A**, and consent shall be given therewith unto the Construction Official or his agent to enter upon and examine the dwelling house or houses and dwelling unit or units and the building or buildings wherein the same may be situate, for which the application is applied for.

(2) All applications for such certificates, as aforesaid, shall be made in writing and shall state the name and address of the owner of the dwelling house or houses, the dwelling unit or units and the building or structure wherein the same may be situate; and the name and address of the owner-occupant or tenant-occupant or any other occupant of the same; and also the name and

address, if a sale or transfer of title, of the seller, transferor, buyer and the new proposed owner-occupant or any-other-purposes occupant; and shall further state the name and address of the renting or sales agent, if any, and shall describe the premises to be occupied, including the street address thereof, and a designation of the portion or portions of the premises or structures for which the specific application is being made and the specific room or rooms in the premises to be occupied for sleeping purposes and the number of persons to occupy each sleeping room.

§ 100-14.4 Inspections.

ATTENTION: Permits and approvals are required for any recent construction and all open permits must have a final inspection before a RRC inspection can be scheduled

(1) The Construction Official or his agent shall conduct an inspection of the premises in question, to ensure compliance with applicable municipal ordinances and rules and regulations affecting the use and occupation of all such dwelling houses and dwelling units and structures. The inspection shall also require compliance with, but not limited to, the following regulations:

(a) Furnace/boiler flue connections: properly sealed vent connectors at chimney.

(b) Water heater/mechanical equipment: require a permit to replace and must have an inspection with an approved sticker affixed to the exterior of the unit.

(c) Sump pumps must be discharged to the exterior and cannot be attached to sanitary sewer line.

(d) Anti-tip brackets shall be installed on kitchen stoves if required by the manufacturer.

(e) Kitchen hood/microwave exhaust ducts that are visible must be rigid, not flexible, where required by the manufacturer.

(f) All electrical outlets, switches, junction boxes, panels must be properly covered; no wires exposed or hanging.

(g) Lamp cords cannot be used on fixed appliances (e.g., garage openers, wall-installed A/C units).

(h) Handrails: must be installed on four or more risers.

(i) Guards must be installed on landings 30 inches above floor/grade and on open basement stairs.

(j) Garage walls/ceilings adjacent to dwelling must be sheet rocked.

(k) Pool/pool gates and fencing. There can be no deviation from original fence installation, gates must swing out, be self-closing and latching, and have latches 54 inches above grade, aboveground pools in non-fence-compliant yards must be 48 inches high with code compliant ladders.

(l) Lawn and bushes should be neatly trimmed.

(m) There can be no open permits or property maintenance violations.

*****THIS INSPECTION IS VISUAL ONLY. IT SHOULD NOT BE CONSIDERED A UCC BUILDING INSPECTION AND IS NOT A GUARANTEE OR WARRANTY OF ANY KIND*****

(2) No certificate of occupancy, resale and/or rental certificate permitting occupancy shall be issued unless there is full and complete compliance with all of the foregoing, unless otherwise specified, in writing, by the Construction Official or his agent.

(a) The purpose of this change is to ensure that there are no violations of either the zoning or building codes; specifically, to check to see that no illegal conversions of single-family homes to two-family and to check for safety violations

§100-14.5 Violations and penalties.

(1) Any person, persons, partnership, firm, corporation, holding company, foreign corporation, limited-liability company or any other entity, whether or not incorporated in this or any other state or country, including any real estate broker or real estate agent or any representative, servant or employee of any of the foregoing, who in any manner knowingly fails to fully comply with the terms and covenants of the within section and who is part of any transaction resulting in the violations of any of the terms and provisions of the within section shall be deemed to have violated the terms and provisions of the within section and is subject to the penalties provided in this revised section for violation of the same, unless and until a certificate of occupancy, resale and/or rental certificate permitting occupancy as aforesaid shall have been issued.

(2) All violations of this section by any person or persons, partnership, firm or corporation or any agents or servants or representatives, as provided herein, whether the person is the owner of the premises, the agent of any party as aforesaid or the tenant or the occupant or occupants,

shall be deemed separate and distinct violations for each and every day that said violations may continue, and all parties violating this section shall be deemed jointly and severally liable for any and all such violations. For each and every violation committed, in violation of this section, violators shall be subject to penalty of \$1,000.00 per day.

§100-14.6_ Issuance by Construction Official or his agent; fees. A certificate of occupancy, resale and/or rental certificate permitting occupancy to be issued under the terms of this section shall be issued solely by the Construction Official or his agent without the necessity of approval therefor by the governing body of the Borough of Old Tappan. The fee for issuance of such certificate, as provided for herein.

- (a) Requests made more than 10 business days prior to inspection: \$50.00
- (b) Between 4-10 business days prior to inspection: \$75.00
- (c) Less than 4 business days prior to inspection: \$125.00
- (d) Re-inspection fee (if the first inspection should fail): \$50.00

§100-14.7_ Compliance with ordinances required. All buildings or structures or dwelling houses or dwelling units for which application shall have been filed by virtue of this section shall fully comply with all other municipal ordinances or requisite municipal requirements for the structures or units. The Construction Official or his agent shall be required to specify the corrections to be made to the premises for the certificate to be issued.

§100-14.8_ Notification when inspection may be made. All owners or renting agents of real estate or person or persons applying for a certificate, as provided herein, shall advise the Construction Official or his agent of a reasonable time or times that the inspection may be made and have someone present to assist and provide entry for the inspection purposes. The Construction Official or his agent shall comply with the request and application within 10 working days after entry is provided and, when proper, shall issue the certificate upon approval.

§ 100-14.9 Compliance with procedures required. No tenant, owner or occupant shall sublease, sublet, transfer title (except as heretofore provided), permit the use or the occupancy of the dwelling house, dwelling unit, swimming pool or structure provided for herein without following the procedures set forth and required by the within section, nor shall any real estate broker or agent or representative of any of the foregoing permit any violation of this section.

M. Should any section, part or provision of this ordinance be held unconstitutional or invalid, Such decision shall not affect the validity of this ordinance as a whole, or any other part thereof.

§ 100-14.10 **Lead Based Paint Certificates and Inspections.**

Inspections for lead-based paint in rental dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq., and N.J.S.A. 55:13A-1 et seq. A dwelling unit in a single-family, two-family, or multiple rental dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint hazards if the unit:

- (i) has been certified to be free of lead-based paint;
- (ii) was constructed during or after 1978;
- (iii) is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.)
- (iv) is a single-family or two-family seasonal rental dwelling which is rented for less than six months duration each year by tenants that do not have consecutive lease renewals; or
- (v) has a valid lead-safe certification.

§ 100-14.11 Required Inspections:

- (3) General Inspection: The owner, landlord and/or agent of every rental dwelling unit offered for rental shall be required to have an inspection of the facility done by the rental inspection officer prior to the rental thereof. The rental inspection officer shall inspect every rental dwelling unit prior to any occupancy or re-occupancy of the dwelling.
- (3) Lead-Based Paint Inspection. The owner, landlord and/or agent of every single-family, two-family, and/or multiple dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three years, or at tenant turnover, whichever is earlier.
- (2) Notice: Whenever any rental dwelling unit is scheduled for a change in occupancy, the then current owner shall provide written notice to the rental inspection officer that an inspection is needed at least 20 days prior to the scheduled change.
- (3) Time for inspections: All inspections and re-inspections shall take place within ten working days of the requested inspection. Inspection fees shall be paid prior to the inspection. No inspections or re-inspections shall take place unless all fees are paid. Scheduled inspections or re-inspections may be canceled by the township unless the

completed application and required fees have been received by the township at least 24 hours prior to the scheduled inspection or on the last working day prior to the scheduled inspection. Every inspection where the landlord, tenant, owner or agent has failed to provide access for inspection shall be deemed a failed inspection.

§ 100-14.12 Fees for inspections: Lead-Based Paint inspection: In addition to the General Inspection fees due pursuant to this section, an additional fee in the amount of \$200.00 shall be paid for each lead-based paint inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this subsection and shall not be used for any other purpose. Alternatively, a dwelling owner or landlord may directly hire a private lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy this requirement, in which case no additional Lead-Based Paint inspection fee shall be paid, however, an administrative fee of \$40 shall be collected along with a fee of \$20 to be collected and sent to the Lead Hazard Control Assistance fund.

Section 2 Repealer

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflicts.

Section 3. Severability

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Old Tappan declares that it would have passed the ordinance and each section thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 4. Effective Date.

This ordinance shall take immediate effect upon passage and publication according to law.