

ORDINANCE #04 OF 2016

**ORDINANCE OF THE BOROUGH OF TUCKERTON,
COUNTY OF OCEAN, STATE OF NEW JERSEY,
AMENDING AND SUPPLEMENTING CHAPTER 122 OF
THE BOROUGH CODE OF THE BOROUGH OF
TUCKERTON, ENTITLED "CERTIFICATES OF
OCCUPANCY" SO AS TO ESTABLISH A NEW CHAPTER
ENTITLED "CERTIFICATES OF INSPECTION".**

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Tuckerton, County of Ocean, State of New Jersey as follows:

SECTION 1. Article 1 and Article 2 of Chapter 122 are deleted in their entirety and in their place the following is to be inserted:

**Chapter 122
CERTIFICATES OF INSPECTION**

ARTICLE I

§122-1. Inspection upon initial occupancy or change of occupancy.

All buildings, structures and units thereof that are rented or sold, regardless of the term, in the borough of Tuckerton for living or sleeping purposes shall be inspected by the Code Enforcement Official on every initial occupancy or change of occupancy after the effective date of this article.

§122-2. Compliance with standards required.

All buildings, structures and units thereof which are inspected pursuant to this article shall comply in all respects with the requirements of Borough ordinances and the applicable provisions of the New Jersey Uniform Construction Code and the provisions of N.J.S.A. 55:13A-1 et seq. and 55:13B-1.

§122-3. Responsibilities of owner, agent or manager.

The owner, rental agent or manager of all buildings and structures and units thereof which are subject to inspection pursuant to this article shall be responsible for notifying, in writing, the Code Enforcement Official that such premises are rented or being offered to be rented or sold so that an inspection or reinspection may be made to a change in occupancy.

§122-4. Issuance of certificate.

Upon completion of an inspection of the premises and the same being determined by the Code Enforcement Official to comply with §122-1 et seq., a rental or resale certificate of inspection shall issue. A copy of the certificate shall be posted by the owner, rental agent or manager of the inspected property in each separate leased or rented unit. No person shall occupy any building, structure or any units thereof until a rental certificate of inspection has issued and the Owner/Landlord shall have registered the premises with the Borough Clerk's Office.

§122-5. Notification of Violations.

In the event that the Code Enforcement Official determines, after an inspection, that the premises in questions are in violation of §122-1 et seq., the Code Enforcement Official shall notify, in writing, the owner, rental agent or manager of the violations noted. Upon correction of the violations, the owner, rental agent or manager shall notify, in writing, the Code Enforcement Official that the corrections have been made so that a reinspection of the property may occur. If, upon reinspection of the property, the Code Enforcement Official determines that previous violations were not corrected or new violations exist, then the Code Enforcement Official shall, again in writing, notify the owner, rental agent or manager of the inspected property of the violations, and this process shall continue until all violations have been corrected. No occupancy of the subject premises shall occur until the violations have been corrected and a Certificate of Inspection has been issued.

§122-6. Service of notice.

Service shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner, rental agent or manager personally; or by leaving the notice at the usual place of abode, in the presence of someone in the family or suitable age and discretion who shall be informed of the contents thereof; or by certified mail and regular mail simultaneously addressed to the owner at the last known address with return receipt requested; or, if the certified or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by such notice; and there shall be at least one publication of such notice in a local newspaper of general circulation.

§122-7. Revocation of certificate.

If, subsequent to the issuance of a rental certificate of inspection, the Code Enforcement Official learns or become aware of violations of §122-1 et seq., an inspection shall be made of the subject premises. If violations are found to exist, then notification in writing shall be given to the owner, rental agent or manager, and said person shall have 10 days from service of the notice to correct all deficiencies noted therein. In the event that the same have not been corrected within 10 days, then the rental certificate of inspection may be revoked by the Code Enforcement Official by mailing a notice of revocation by certified mail to the owner, rental agent or manager and to the tenant or tenants, and the premises will be vacated.

§122-8. Violations and Penalties.

- A. If, subsequent to the issuance or a rental or re-sale certificate of inspection, the Code Enforcement Official learns or becomes aware of violations of **§122-1** et seq., an inspection shall be made of the subject premises. If violations are found to exist, then notification in writing shall be given to the owner, rental agent or manager and said personal shall have 10 days from service of the notice to correct all deficiencies noted therein. In the event that the same have not been corrected within 10 days, then the rental certificate of inspection may be revoked by the Code Enforcement Official by mailing a notice of revocation by certified mail to the owner, rental agent or manager and to the tenant or tenants, and the premises will be vacated.
- B. Any person, firm or corporation which shall violate any provision of this Article shall, upon conviction thereof, be subject to a fine of not less than \$100 nor more than \$1,000 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the court. Each day that a violation continues, after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

Upon conviction for a second violation any person, firm or corporation shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. Each day that a violation continues, after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

Notwithstanding any of the aforementioned and not in limitation thereof, in case any violation order is not promptly complied with, the Code Enforcement Official may request the jurisdiction's legal representative to institute an appropriate action or proceeding at law or equity to exact the penalty provided as indicated above or may ask the legal representative to proceed at law or in equity against the persons responsible for the violation for the following purposes:

- (1) To restrain, correct or remove the violation or refrain from any further execution of work;
- (2) To restrain or correct the erection, installation or alteration of each structure;
- (3) To require the removal of work in violation; or
- (4) To prevent the occupation or use of the structure or part thereof which has erected, constructed, installed or altered in violation or, or not in compliance with, the provisions of this Code or in violation of a plan or specification under which an approval, permit or certificate was issues.

§122-9. Fees.

- A. The owner of the inspected property shall be charged a fee for each inspection as follows:
 - (1) Each dwelling unit: \$75.00.
 - (2) Season Rental Inspection: \$150.00 per calendar year.
- B. A fee of \$40.00 shall be charged for each dwelling until which is required to be reinspected during any calendar year.
- C. The aforesaid fees shall be paid to the Construction Office prior to any inspection being made hereunder.
- D. The term “dwelling unit” shall be defined as a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living sleeping, cooking and sanitation.

ARTICLE II

§122-10. Temporary waiver of certificate of inspection.

A purchaser of any property regulated by the chapter may waive the seller’s responsibility to obtain a certificate of inspection prior to the transfer of title; provided, however, that such waiver shall be in writing on forms provided by the Borough. Such waiver shall state that the buyer is fully aware that he, she or it is assuming full responsibility for obtaining a certificate of inspection prior to the occupancy of the property. An application for a waiver of the certificate of inspection shall be accompanied by a fee of \$25.

§122-11. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not less than \$100 nor more than \$1,000, by imprisonment for a term not to exceed 30 days, or by community service as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or person allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

SECTION 2. All ordinance or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting of the Borough Council of the Borough of Tuckerton held on the 19th day of January, 2016, and will be considered for second reading and final passage at a meeting of the Borough Council to be held on the 16th day of February, 2016, at 7:00 p.m. at the Borough Hall located at 140 East Main Street, Tuckerton, New Jersey, at which time and place, any persons desiring to be heard upon the same will be given the opportunity to be so heard.

JENNY GLEGHORN, RMC

Borough Clerk, Borough of Tuckerton

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The Borough of Tuckerton introduced the above ordinance at its January 19, 2016 meeting. The Ordinance amends and supplements Chapter 122 of the Borough Code of the Borough of Tuckerton entitled “Certificates of Occupancy” so as to establish a new chapter entitled “Certificates of Inspection”. The Ordinance will be considered on second and final reading at the February 16, 2016 meeting of the governing body. All meetings are held at the Borough Hall located at 140 East Main St., Tuckerton, New Jersey, commencing at 7:00 p.m. Copies of all Ordinances are available at no cost at the Borough Clerk’s Office located at 420 East Main St., Tuckerton, New Jersey, Monday through Friday from 9:00 a.m. to 4:00 p.m.

JENNY GLEGHORN, RMC
Borough Clerk
Borough of Tuckerton