

No. 6F-F 1st Reading APR 17 2019

# Ordinance of the

Date to Mayor NOV 19 2019

No. Public Hearing

Date Returned NOV 21 2019

No. 6PSF-A 2nd Rdg. and Final Passage NOV 18 2019 City of Newark, N.J.

Date Resubmitted to Council

Date Advertised 1st Reading APR 22 2019

No. Reconsidered

Approved as to Form and Legality on Basis of Facts Set Forth

Final Reading

Actual contents certified to by

Corporation Counsel

Title

Council member Whole presents the following Ordinance:

1 AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE XVIII HOUSING CODE;  
2 CHAPTER 6, HOUSING AND ZONING REGULATIONS (CERTIFICATE OF CODE  
3 COMPLIANCE) OF THE REVISED GENERAL ORDINANCES OF THE CITY OF  
4 NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY  
5 ADDING SECTION 10, CERTIFICATE OF CODE COMPLIANCE REQUIRED UPON  
6 A NEW TENANCY AND ESTABLISHES A REQUIREMENT FOR INSPECTION OF  
7 A RENTAL UNIT UTILIZING ANY FORM OF RENTAL ASSISTANCE OR RENTAL  
8 SUBSIDY BY THE SPONSORING AGENCY BEFORE A CERTIFICATION OF  
9 CODE COMPLIANCE IS ISSUED.

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13 WHEREAS, many tenants in the City of Newark rent substandard apartments  
14 due to the failure of landlords to maintain and upkeep their properties after the receipt  
15 of an initial Certificate of Occupancy; and

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17 WHEREAS, many of these apartments are rented with substandard conditions  
18 that are unknown to the municipality and accepted out of desperation by tenants due  
19 to a lack of housing stock in the City of Newark; and

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22 WHEREAS, many tenancies are subsidized by some form of rental assistance  
23 whether provided by the Federal Government, State of New Jersey, a County in the  
24 State of New Jersey or other States within the United States; and

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27 WHEREAS, many of the agencies that provide rental assistance through  
28 vouchers or other form of rent subsidy do not require inspection of the various  
29 apartments that a recipient selects and therefore allow a recipient to select  
30 substandard housing due to a housing shortage; and

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33 WHEREAS, municipalities throughout the United States have sent and  
34 continue to send their homeless population to the City of Newark without making  
35 provisions for them; and

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38 WHEREAS, the number of homeless in the City of Newark has increased,  
39 which has also increased the number of homeless persons in shelters located in the  
40 City; and

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43 WHEREAS, N.J.S.A. 40:48-2 authorizes a municipality to make, amend, repeal  
44 and enforce such other ordinances, regulations, rules and by-laws not contrary to the  
45 laws of this state or of the United States, as it may deem necessary and proper for the  
46 good government, order and protection of persons and property, and for the  
47 preservation of the public health, safety and welfare of the municipality and its  
48 inhabitants; and

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51 WHEREAS, N.J.S.A. 40:48-2.12(a) authorizes the Governing Body of any  
52 municipality to make, amend, repeal and enforce ordinances to regulate buildings and  
53 structures and their use and occupation to prevent and abate conditions therein  
54 harmful to the health and safety of the occupants of said buildings and structures and  
55 the general public in the municipality; and

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58 WHEREAS, N.J.S.A. 40:48-2.12(m) authorizes the Governing Body of a  
59 municipality to adopt ordinances regulating the maintenance and condition of any unit  
60 of dwelling space, upon the termination of occupancy, in any residential rental  
61 property for the purpose of the safety, healthfulness, and upkeep of the structure and  
62 the adherence to such other standards of maintenance and condition as are required

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in the interest of public safety, health and welfare. Such ordinances shall require the owner of any residential rental property, prior to rental or lease involving a new occupancy of any unit of dwelling space in such property, to obtain a Certificate of Inspection or Occupancy for the unit of dwelling space. Such Certificate of Inspection or Occupancy shall be issued by the municipality upon the inspection of the unit of dwelling space by a municipal inspector and his findings that such unit meets the standards provided by law. The municipality may charge a fee to fund the costs of the inspections and the issuance of the certificates; and

**WHEREAS**, the Mayor and the Municipal Council of the City of Newark desire to protect the residents of the City of Newark (the "City") and to ensure they live in safe and clean living conditions by requiring all rental units upon new tenancies to secure a Certificate of Code Compliance from the Office of Inspections and Enforcement and require agencies providing rental vouchers, rental subsidies or rental grants to conduct inspections before recipients accept an apartment.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**Note: Additions are shown in bold and underlined.**

**SECTION 1. Title XVIII entitled Housing Code, Chapter 6 Housing and Zoning Regulations (Certificate of Code Compliance) of the Newark Municipal Code is hereby supplemented and amended as follows:**

**18:6-10. CERTIFICATE OF CODE COMPLIANCE REQUIRED FOR NEW TENANCY.**

**18:6-10.1. Certificate of Code Compliance**

**A. Prior to any change in occupancy of any hotel, dwelling unit, rooming house, rooming unit, boardinghouse, motel, apartment unit or premises which is used, partially used or intended to be used for human occupancy, a certificate of code compliance shall first have been obtained from the Department of Engineering, Office of Inspections and Enforcement, stating that the rental unit has complied with the requirements of the Housing Code. In the case of a hotel or motel, this section shall only apply in those cases involving permanent, rather than transient, residence. After an initial inspection, a landlord shall cause the rental unit to be inspected annually.**

**B. An inspection shall be obtained either by the owner/landlord or the owner's agent prior to a change in occupancy and shall be performed by the Office of Inspections and Enforcement for the purpose of determining if a Certificate of Code Compliance may be issued.**

**C. Inspections pursuant to Subsection B of this Section shall be conducted using the following criteria:**

**(1) All violations of City ordinances shall be reflected in the inspection report in order to provide notice to the owner of such violations.**

**(2) A violation of the plumbing code which poses a positive or obvious major threat to the health, safety or welfare of any potential occupancy, a violation of the electrical code which poses a positive or obvious major threat to the health, safety or welfare of any potential occupancy, or any other condition which poses a positive or obvious threat to the health, safety or welfare of any potential occupancy shall be deemed a major violation of the housing code and shall be designated to the owner/landlord separately on the inspection report.**

**(3) The inspection of the rental unit must be conducted within ten (10) days of the receipt of the application from the landlord/owner.**

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(4) If the rental unit is not inspected by the Office of Inspections and Enforcement within ten (10) days of receipt of the application, the landlord/owner shall be issued a temporary Certificate of Code Compliance automatically. A temporary Certificate of Code of Compliance issued under this subsection shall last for only thirty (30) days, within which the rental unit must be inspected by the Office of Inspections and Enforcement.

(5) A landlord/owner is authorized to apply for a Certificate of Code Compliance thirty (30) days before the current tenant is scheduled to vacate the property, subject to all requirements of this Ordinance.

D. Violations of the kind described in Subsection (C2) of this Section must be corrected by the owner of the unit before the issuance of a Certificate of Code Compliance for a new tenancy. The responsibility for correction of a violation of the housing code is the responsibility of the owner/landlord and shall not transfer to the tenant.

E. An unconditional Certificate of Code Compliance shall be issued by the Office of Inspections and Enforcement at such time as the office is satisfied that all violations have been corrected.

F. The completed Certificate of Code Compliance shall contain the names of both the landlord and the tenant. One copy of the completed Certificate of Code Compliance as provided by the Office of Inspections and Enforcement shall remain each with the landlord and the tenant.

G. The landlord shall ensure that the tenant shall sign a tenant's receipt as provided by the Office of Inspections and Enforcement evidencing their receipt of the tenant's copy of the Certificate of Code Compliance. The landlord shall then, within 10 days, upon securing the tenant's signature, forward the signed tenant's receipt to the Office of Inspections and Enforcement.

H. A Certificate of Code Compliance for occupancy is valid for the authorization of occupancy for a period of ninety (90) days after issuance upon which time a tenant must move into the rental unit. The Manager of the Office of Inspections and Enforcement may authorize extensions of thirty (30) days only upon presentment of sufficient proof that the extension is necessary due to unforeseeable circumstances beyond the control of the parties involved.

I. The purpose of this Section is to continue to ensure compliance with the various City Ordinances and the Housing Code in order to maintain high standards of housing for rental units within the City of Newark. However, the City, by this Section, is not acting as a guarantor of any property insofar as any potential owner/landlord or occupant is concerned, nor shall the City be considered to be involved in any manner in the contractual relationships between the parties.

J. If any landlord/owner rents an apartment in violation of this Section and that unit is later found to be in substandard condition that results in violations issued by the Office of Inspections and Enforcement, that rental unit shall be deemed an illegal apartment. If the condition of the rental unit is such that it is a threat to the health and welfare of the tenant and requires the relocation of a tenant because of the violation, then that owner/landlord shall be liable for relocation costs of six (6) months' rent to the tenant pursuant to N.J.S.A. 2A:18-61.1g.

If after a determination is made by the Office of Inspections and Enforcement, evidenced by violations, that the condition of the rental unit is such that it is a threat to the health and welfare of the tenant and requires the tenant to be displaced, the landlord shall be required to either:

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1. Relocate the tenant in a vacant rental unit in the same building, or in the case of a landlord who owns multiple buildings, in another building; or
2. Immediately issue all security deposits with accumulated interest to the tenant so that the tenant can secure a new rental unit; or
3. Provide the tenant with the equivalent of three (3) months of the rent paid in the current rental unit so that the tenant immediately secures another rental unit.

**K. The fee for the issuance of a Certificate of Code Compliance shall be as follows:**

Rental Unit Inspection .....(\$100 - includes 1 re-inspection)  
Second or more re-inspection .....(\$75)

**L. The fee for issuance of a Certificate of Code Compliance for rental units that are classified as affordable units as part of any existing dwelling or new development shall be waived.**

**M. New Construction shall be exempt from this Ordinance for five (5) years following the date on which a final Certificate of Occupancy is received. This provision shall be retroactive.**

**18:6-10.2. INSPECTION REQUIRED BY PROVIDER OF RENTAL VOUCHER/SUBSIDY**

**A. Any agency or person that provides a rental voucher, rental subsidy or rental grant, whether from the Federal Government, State of New Jersey, a County in the State of New Jersey or other States within the United States, shall inspect the rental unit, prospective hotel, dwelling unit, rooming house, rooming unit, boardinghouse, motel, apartment unit or premises which is used, partially used or intended to be used for human occupancy, to ensure that it is free from threats to the health, safety and welfare of the tenant and is habitable. In the case of a hotel or motel, this Section shall only apply in those cases involving permanent, rather than transient residence.**

**B. Upon inspection of the rental unit by the agency, a report in the form of a letter shall be provided to the Office of Inspections and Enforcement detailing:**

- (1) the nature and length of the rental assistance, voucher or subsidy.
- (2) whether the rental unit has been approved by the agency.
- (3) the name of the landlord and the tenants with their contact information and the address of the property.
- (4) a copy of the application for the Certificate of Code Compliance.
- (5) a plan of action for the provision of rental assistance beyond the current tenancy so as to avoid homelessness of the tenant. The plan of action may include but not be limited to items such as planned job training, referrals to various agencies for rental assistance and any other services to prepare the tenant for the end of the current rental assistance.
- (6) Provide an agreement with the City of Newark that the agency will not pre-pay subsidized rent for one (1) year because it takes away the right of a tenant to withhold rent in the case of uninhabitable living conditions that have developed and a landlord refuses to remediate.
- (7) The agency shall provide the City with the report from the inspection on the rental unit. The Office of Inspections and Enforcement shall determine, based on a careful analysis of the standards used in the



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agency's inspection and the results of the inspection, whether to issue a Certificate of Code Compliance based on the agency's inspection report. If the report is unacceptable to the Office of Inspections and Enforcement, then a full inspection shall be conducted by the City.

C. A Certificate of Code Compliance shall not be issued until such time that the information required to be produced in paragraph (B) above is complied with.

D. The inspection required by paragraph (A) above shall not be the same as the inspection required to secure a Certificate of Code Compliance. The Inspection to be conducted by the provider of rental assistance, grant, voucher or subsidy is to ascertain that the agency is aware of the condition of the apartment that the recipient is about to rent and approve same.

E. An agency or person providing a rental voucher, rental subsidy or rental grant shall not provide pre-paid rent to a landlord but shall provide payment on a monthly basis after receiving written confirmation from the tenant that the tenant continues to enjoy quiet enjoyment and the rental unit continues to be habitable.

F. No Landlord shall accept pre-paid rent for more than (1) month from an agency or person providing rental subsidy, assistance, grant or voucher. Except, a Landlord may accept pre-paid rent if it solely the decision of the tenant and the tenant is paying rent without a rental subsidy, assistance, grant or voucher.

G. For rental units that are occupied by tenants receiving any form of subsidy described above on the effective date of this Ordinance, the agency providing the rental subsidy shall have sixty (60) days to comply with paragraph (B) above, except that the letter shall be accompanied by a copy of the final Certificate of Code Compliance.

#### 18:6-10.3 Bringing a Needy Person to the City of Newark

No person shall knowingly bring, or cause to be brought, a needy person to the City of Newark for the purpose of making him or her a public charge. A person who violates this sub-section shall be obligated to convey such needy person out of the City of Newark.

For the purposes of this sub-section, a needy person shall mean a person who is in a state of poverty and needs help in getting the necessities of food and shelter.

#### 18:6-10.4 Penalty.

Violations of this Section by any person or corporation shall be punishable by a fine of at least Two Hundred Fifty Dollars and Zero Cents (\$250.00) but not exceeding One Thousand Dollars and Zero Cents (\$1,000.00) or by imprisonment for a term not exceeding ninety (90) days or by a period of community service not to exceed ninety (90) days. Each day's violation of this Section shall constitute a separate offense.

All fines that are unpaid by a homeowner, whether individually or a corporation, shall become a lien on the property.

**SECTION 2:** If any provision of this Ordinance or application thereof to any person(s) or circumstance is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalidated provision or application, and to this end the provisions of this Ordinance are declared severable.

**SECTION 3:** The Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

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### STATEMENT

This Ordinance Amends Title XVIII, Housing Code, Chapter 6, Housing and Zoning Regulations (Certificate of Code Compliance) of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, by adding a Section 10, Certificate of Code Compliance required upon new tenancy and establishes a requirement for inspection of a rental unit utilizing any form of rental assistance or rent subsidy by the sponsoring agency.

CERTIFIED TO BY ME THIS  
 NOV 21 2019

DO NOT USE SPACE BELOW THIS LINE

| RECORD OF COUNCIL VOTE ON FINAL PASSAGE |     |     |    |    | RECORD OF COUNCIL VOTE FOR RECONSIDERATION |     |     |    |    |                |     |     |    |    |
|---|-----|-----|----|----|--|-----|-----|----|----|----------------|-----|-----|----|----|
| Council Member                          | AYE | NAY | NV | AB | Council Member                             | AYE | NAY | NV | AB | Council Member | AYE | NAY | NV | AB |
| Amador                                  | ✓   |     |    |    | Osborne                                    | ✓   |     |    |    | Amador         |     |     |    |    |
| Gonzalez                                | ✓   |     |    |    | Quintana Vice President                    |     |     |    | ✓  | Gonzalez       |     |     |    |    |
| James                                   | ✓   |     |    |    | Ramos, Jr.                                 |     |     |    | ✓  | James          |     |     |    |    |
| McCallum, Jr.                           | ✓   |     |    |    | Crump President                            | ✓   |     |    |    | McCallum, Jr.  |     |     |    |    |
| Mclver                                  | ✓   |     |    |    |  |     |     |    |    | Mclver         |     |     |    |    |

✓ - Indicates Vote

AB - Absent

NV - Not Voting

APR 17 2019

Adopted on first reading at a meeting of the Council of the City of Newark, N.J. NOV 18 2019

Adopted on second and final reading after hearing on

Approved  
 Rejected By

*Michael C. Crump*

Mayor

Council President

*Kenneth*

016

City Clerk

This Ordinance when adopted must remain in the custody of the City Clerk. Certified copies are available.