

MASON, GRIFFIN & PIERSON
A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW

MEMORANDUM

To: Princeton Mayor & Council

From: Trishka W. Cecil, Municipal Attorney



Date: May 7, 2014

Re: Ordinance Concerning the Issuance of a Certificate of Compliance for Rental Units

On the agenda for introduction at the May 12, 2014 Mayor & Council meeting is an ordinance entitled "An Ordinance Concerning the Issuance of a Certificate of Compliance for Rental Units and Amending the 'Code of the Borough of Princeton, New Jersey, 1974.'" The ordinance amendment comes at the request of Princeton Fire Official William S. Drake.

Last June, the Mayor & Council adopted a consolidated housing code ordinance for the new Princeton, which combined features from the former Princeton Borough and Princeton Township housing codes. As described in a memorandum Bill Drake prepared at the time (enclosed), the consolidated ordinance was intended to exempt rental units in owner-occupied two-family dwellings from obtaining a certificate of compliance. Through a typographical error, however, that exemption was omitted from the copy of the ordinance that was introduced and adopted. Although the omission was clearly a typographical error¹ and not the product of a policy decision, nevertheless the only way it can be corrected is through a formal ordinance amendment.

To that end, attached hereto is a proposed ordinance adding a "new" subsection to the consolidated housing code to exempt rental units in owner-occupied two-family dwellings from the requirement for a certificate of compliance. We would appreciate it very much if you would consider introducing this ordinance at your meeting on May 12, 2014.

Please do not hesitate to contact me at (609) 436-1211 or trishka@mgplaw.com if you have any questions or would like additional information.

Enclosures

cc: Linda McDermott
Robert Bruschi
Kathy Monzo
William S. Drake

¹This is made evident by the fact that the list of exemptions in Section 16-7(a)(1) skips from (1)e to (1)g. The current ordinance would insert subsection (1)f containing the missing exemption.



**Bureau of Fire Safety
& Housing Inspection**
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MEMORANDUM

6/24 - Pub Hearing

TO: Mayor & Council
FROM: William S. Drake, Fire Official
DATE: April 1, 2013
RE: Consolidated Princeton Housing Code Ordinance -Summary of Modifications

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The Princeton Housing Code ordinance has been submitted for your consideration as part of the municipal consolidation process. Although the two former municipalities both had a program for conducting residential rental housing inspections, they were not equal in scope and jurisdiction. Our goal in creating the new ordinance is to ensure that the rental housing stock in the consolidated municipality is properly maintained through a solid housing inspection program, while utilizing the existing inspection staff of the Bureau of Fire Safety & Housing Inspection. Prior to consolidation, rental housing inspections in the "Township" were carried out by the Building Department, whereas the "Borough" inspections were performed by the Bureau of Fire Safety & Housing Inspection.

Other than those changes outlined in the following section "Major Policy Changes", no new regulations, fees, or requirements are contained in the new housing code. The changes are restricted primarily to removing references to the two former municipalities, clarifications, and updates to terminology.

I. Major Policy Changes

The proposed new ordinance for the consolidated Princeton contains policy changes to accomplish the municipal goal of ensuring a safe, sanitary and well maintained rental housing stock without the need for additional staffing. None of the proposed changes contained herein establish a new policy that was not otherwise in effect prior to the consolidation; where there were differences in policy between the former "Borough" and "Township", I selected one of the previous municipalities policy over the other, outlined as follows:

1) Multiple Family Dwelling Inspections

Previously, the “Borough” housing inspection ordinance required inspections of all multiple family dwellings, including dwelling units and common areas, once every two years, with the provision that an inspection by the New Jersey DCA/Bureau of Housing Inspection would be accepted in lieu of the local inspection. Effectively, this provided for a rental housing inspection in all areas of a multiple family dwelling by the “Borough” every five years. The “Township”, on the other hand, deferred all rental housing inspections in multiple family dwellings to the New Jersey DCA/Bureau of Housing Inspection, effectively restricting local jurisdiction to one- and two-family rental dwellings. I am recommending that the municipality relinquish local jurisdiction for multiple family dwelling housing inspections in the consolidated municipality based on the following:

- a. The NJ DCA/Bureau of Housing Inspection will continue to perform cyclical housing inspections every five years in both former municipalities;
- b. Common areas of multiple family dwellings will be inspected annually by the Bureau of Fire Safety & Housing Inspection under the provisions of the NJ Uniform Fire Code, and as such the condition of multiple family dwellings can be monitored and addressed at a later date if warranted.

Therefore, both the technical requirements and the administrative requirements of the new ordinance have been stripped of requirements pertaining to the inspection of multiple family dwellings.

2) Rooming and Boarding Houses

Previously, the “Borough” ordinance required inspections of rooming and boarding houses (aka “lodging houses”) every two years. The “Township” ordinance did not cover rooming and boarding house inspections, since rooming and boarding houses are inspected on an annual basis by the NJ DCA/Bureau of Rooming and Boarding House Standards. Furthermore, NJ Statutes require that any municipality which desires to inspect rooming and boarding houses establish a separate “Rooming and Boarding House Licensing Board” (N.J.S.A. 40:52-9 *et. seq.*) (The “Borough” ordinance predates the statutory requirement for a licensing board)

I am recommending that the municipality relinquish local jurisdiction for housing inspections of rooming and boarding house inspections in the combined municipality based on the following:

- a. The NJ DCA/Bureau of Rooming and Boarding House Standards inspects these dwelling units on an annual basis;

- b. There is only one, legally recognized rooming house within the former “Borough”;
- c. The Zoning requirements of both former municipalities generally prohibit new rooming and boarding houses;
- d. The consolidated municipality would be required to create a “Rooming and Boarding House Licensing Board” where no such board previously existed in either municipality prior to consolidation;
- e. Rooming and boarding houses are required to be registered as a “life hazard use” and inspected by the Bureau of Fire Safety and Housing Inspection on an annual basis for compliance with the New Jersey Uniform Fire Code.

Therefore, both the technical requirements and the administrative requirements of the new ordinance have been stripped of any requirements pertaining to the inspection of rooming and boarding houses.

3) Exempt Units



The “Borough” housing ordinance specified five (5) types of rental dwelling units which were exempt from the housing inspection program and not specifically exempted in the “Township” housing ordinance: government-owned or financed housing units, student, faculty or staff housing owned by an educational institution, hotels, and two-family dwellings where the owner lives in one of the two units. Although the “Township” ordinance did not contain the same exemptions as the “Borough” ordinance, it appears from the records that the “Township” program in many cases followed the same guidelines as the “Borough”.

Based on the propensity of these units in the former “Borough”, I am recommending the exemptions be continued. This would exempt some units of rental housing, primarily owner-occupied two-family dwellings, which were previously subject to inspection in the “Township”.

4) Rental Registration Requirements

Previously, the “Borough” rental registration ordinance contained additional requirements pertaining to additional municipal notification whenever a tenants rent was increased or whenever there was a change in tenancy, and also created a “rental housing board”. These requirements were instituted in 1986 when the Borough abolished rent control and the rent control board. The additional requirements served primarily as a means of monitoring the market rate of the rental housing stock and was reviewed by the rental housing board. The rental housing board was informally disbanded by the Mayor around the year 2000, since the board had not met, nor needed to meet, for several years.

The “Township” rental registration ordinance is minimal and closely follow the NJ Statutes pertaining to local rental registration (N.J.S.A. 46-8-28 *et. seq.*), with the additional requirement that the owners of rental dwelling units in flood zones notify tenants and prospective tenants of previous flood damage.

I recommend that the rental registration requirements for the consolidated municipality follow the requirements as set forth in the “Township” ordinance, since the additional requirements of the “Borough” ordinance, especially the establishment of a rental housing board, are no longer necessary. Therefore, I have removed all references to the rental housing board along with the requirements to separately transmit to the municipality changes in tenants and rent increases.

5) Overcrowding Enforcement

The technical requirements contained in the two previous municipal ordinances (“Housing Code”) were similar in nature, as the “Township” ordinance was based on an older version of the “Borough” ordinance. The major distinction is that the “Borough” ordinance contained additional qualifiers to aid in the prosecution of overcrowded residences. Specifically, the “Borough” ordinance allowed the inspectors to issue a summons the owner of a residence for overcrowding where it was obvious that dwelling units were being occupied by more than one family, even though physical barriers, such as walls and doors, had not been constructed. The “Borough” ordinance allowed for a court summons to be issued immediately if certain conditions were present during the inspection, bypassing the normal process of issuing a “notice of violation” and allowing time for correction. These requirements were carried over and included in the new ordinance. The remainder of the combined technical requirements of the housing ordinance closely reflects what was previously required in both municipalities.

I believe that the combined ordinance will accomplish the municipalities goal of ensuring that our rental housing stock remains safe, sanitary and well maintained. This ordinance preserves the best features of the two former municipal ordinances while remaining sensitive to not imposing new or onerous requirements that did not exist prior to consolidation. I believe we can accomplish this while maintaining existing staffing levels and yet provide the ability to continually monitor the health of the rental housing stock and flexibility for the Mayor & Council to make changes should future conditions dictate.

Summary of Changes/modifications to the Rental Housing Code (as of 3/13/13):

Adopted the "Borough" housing code & inspection program, with the following changes:

- 1) Removed all references to "Borough" and "Township" throughout the document;
- 2) Removed all references to "Multiple Family Dwellings" and "Lodging Houses" throughout the document;
- 3) Added exemption from inspection/certificate requirements for multiple family dwellings and lodging units registered and inspected by the NJ DCA/Bureau of Housing Inspection;
- 4) Added exemption from inspection/certificate requirements for rooming houses and rooming units, where same are registered and inspected by the NJ DCA/Bureau of Rooming and Boarding House Standards;
- 5) Removed inspection fee for multiple family dwellings;
- 6) Clarified that a building containing one unit in addition to the unit in which the owner resides is, after having obtained an initial certificate of inspection, exempt from cyclical inspections unless the owner moves out or the building is sold,.
- 7) Added a section to clarify that no certificate of inspection may be issued unless the rental unit is properly registered pursuant to the rental registration ordinance.
- 8) Clarified that a tenant could accept designation of owners "agent" in certain circumstances.
- 9) Updated/corrected terms and phrases and other miscellaneous corrections of a minor nature.

Summary of Changes/modifications to the Rent Registration Program(as of 3/13/13):

Adopted the "Township" rental registration requirements with the following changes:

- 1) Removed all references to "Borough" and "Township" throughout the document;
- 2) Clarified that rental dwellings are to be registered prior to use as a rental dwelling;
- 3) Clarified that the rental housing coordinator is the designated person for receiving rent registration;
- 4) Clarified that rental registration does not apply to some of the dwellings/dwelling units which are exempt from cyclical housing inspections.
- 5) Changed the frequency of rent registration to once every two years, to coincide with the bi-annual inspection program.
- 6) Clarified registration requirements for multiple family dwellings and rooming/boarded homes.
- 7) Removed the requirement for semi-annual newspaper advertisements regarding the rent registration program requirements.
- 8) Removed "Borough" requirement concerning effectiveness of rent increases.
- 9) Removed all references to the previously defunct "Borough" rental housing board, including appeals to said board of actions of rental housing coordinator.
- 10) Removed "borough" requirements pertaining to notification to the municipality regarding changes in the name of tenants.
- 11) Updated/corrected terms and phrases and other miscellaneous corrections of a minor nature.

**AN ORDINANCE CONCERNING THE
ISSUANCE OF A CERTIFICATE OF
COMPLIANCE FOR RENTAL UNITS AND
AMENDING THE "CODE OF THE
BOROUGH OF PRINCETON, NEW
JERSEY, 1974".**

WHEREAS, the Borough of Princeton and Township of Princeton consolidated on January 1, 2013 into a new municipality known as Princeton; and

WHEREAS, pursuant to the provisions of the New Jersey Municipal Consolidation Act, *N.J.S.A. 40:43-66.35*, the Mayor and Council of Princeton have kept in effect the former "Code of the Borough of Princeton, New Jersey, 1974" for purposes of establishing a housing code for the municipality of Princeton; and

WHEREAS, the Princeton fire official has recommended an amendment to Chapter 16 of said code.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of Princeton as follows:

1. Section 16-7(a)(1) of the "Code of the Borough of Princeton, New Jersey, 1974" which establishes exemptions for owners of dwelling units requiring a certificate of compliance is amended by adding thereto the following new subparagraph f to read as follows:

"Any unit which is in a building or structure in which the owner resides and which contains one dwelling unit in addition to the unit in which the owner resides."

2. This ordinance shall be applicable to all dwellings subject to the housing code regulations set forth in Chapter 16 of said Code.

3. This ordinance shall take effect upon its passage and publication as provided for by law.

Linda S. McDermott, Clerk

Liz Lempert, Mayor

Ordinance Introduced:

Ordinance Adopted:

The purpose of this ordinance is to amend the Princeton housing code by exempting rental units in owner-occupied two-family dwellings from the requirement to obtain a certificate of compliance. The exemption was intended to be included in the consolidated housing code adopted in 2013 but was omitted as the result of a typographical error. This ordinance would correct that error.