

Chapter 1000

Administration, Waivers, Enforcement, Violations, and Penalties

1001 ADMINISTRATION

These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the City. Any action taken by the City under the terms of this Ordinance shall give primary consideration to the above mentioned matters and to the welfare of the entire community.

1002 WAIVERS

The Planning Board, when acting upon applications for preliminary or minor subdivision approval or upon applications for preliminary site plan approval, shall have the power to grant such exceptions from the requirements for such subdivision or site plan approval as specified in this Ordinance if an applicant or agent can clearly demonstrate that, because of peculiar conditions pertaining to his land, the literal enforcement of one (1) or more of said requirements is impracticable or will exact undue hardship; however, any exception granted by the Planning Board must be reasonable and within the general purpose and intent of the rules, regulations and standards established by this Ordinance. The Zoning Board of Adjustment shall have the power to grant such exceptions when acting upon applications for preliminary or minor subdivision approval or for preliminary site plan approval in connection with applications for a use or 'd' variance.

1003 ENFORCEMENT

A. The Construction Official and Zoning Official

It shall be the duty of the Construction Official and the Zoning Official of the City to administer and enforce the provisions of this Ordinance. No new structure shall be erected unless a construction permit is obtained from the Construction Official and no structure or lot shall be used in violation of this Ordinance.

1. It shall be the duty of the Construction Official to keep a record of all applications and all construction permits which are either issued or denied, with notations of any conditions involved, which data shall form a part of the City public records.
2. It shall be the duty of the Zoning Official to inspect the structures and land in the City and order the owner in writing to remedy any condition found to exist in violation of the provision(s) of this Ordinance. For purposes of this inspection, the Zoning Official or other designated inspectors shall have the right to enter any building or premises during reasonable hours, subject to due process of law. Said order shall specify that the owner must contact

the Zoning Official within 15 days after service of the order to propose a plan to remedy the violations cited.

3. In the event that an owner cited for violations of this Ordinance fails to propose a remedial plan within 15 days, or in the event that such plan is deemed unacceptable to the Zoning Official, said Zoning Official shall so inform the City Clerk and City Attorney. The City Attorney shall advise the City Clerk and Zoning Official of the legal options available to facilitate remedial action in each individual case.
4. Upon notice being served of any land use existing in violation of any provision(s) of this Ordinance, the Certificate of Occupancy for such shall thereupon, without further notice, be null and void and a new Certificate of Occupancy shall be required for any further use of the structure or land.

B. Construction Permits

Construction permits shall be required as provided by the State Uniform Construction Code, its sub-codes, and regulations promulgated pursuant thereto. Fees for construction permits shall be in accordance with the applicable Ordinances of the City.

C. Certificate of Occupancy

1. Upon the completion of any building, structure or alteration in compliance with this Ordinance and any other ordinance, rule or regulation, the owner or his agent shall apply to the Construction Official, in writing, for the issuance of a Certificate of Occupancy for said structure, building or alteration pursuant to the provisions of this section, but only when:
 - a. The structure or part(s) thereof and the proposed use conform to this Ordinance and all other applicable codes and ordinances of the City;
 - b. Prior site plan, subdivision and variance approvals, as may be necessary, have been granted by the appropriate municipal agency or municipal agencies in accordance with the provisions of this Ordinance;
 - c. All local taxes and assessments on the property have been paid; and

- d. A letter from each utility company has been received by the City stating that the utility has been inspected in accordance with the approved plan and is ready for use.
2. Every application for a Certificate of Occupancy shall be accompanied by payment of the fee in accordance with the applicable Ordinances of the City.
3. The Construction Official shall issue or deny a Certificate of Occupancy to the owner of every structure, building or alteration entitled to same, within ten (10) days from the date that a written notification is filed with the Construction Official, unless additional time is agreed upon by the applicant in writing and according to the procedures set forth in the New Jersey State Uniform Construction Code, and in this Ordinance.
4. With respect to any finally approved subdivision, site plan, or subsection thereof, a Certificate of Occupancy shall be issued only upon the completion of the following improvements:
 - a. Curbs.
 - b. All utilities.
 - c. Water supply and sewerage treatment facilities, which shall be functioning and servicing the property in question.
 - d. Storm drainage facilities.
 - e. Rough grading of the property.
 - f. Base course of the street or streets serving the property.
 - g. Base course of driveways and parking areas.
5. With respect to any individual residential lot, a Certificate of Occupancy shall be issued only upon the completion of the following improvements, in addition to those listed in Section 1003 (C)(4) hereinabove, to the extent the same are required as part of final approval:
 - a. Sidewalks.
 - b. Driveway aprons.
 - c. Street names and regulatory signs.
6. A copy of any issued Certificate of Occupancy shall be kept on file at the premises affected and shall be shown to the Construction Official upon request.
7. Should the Construction Official decline to issue a Certificate of Occupancy, his reason for doing so shall be stated on two (2) copies of the application and one (1) copy shall be returned to the applicant.

8. A Temporary Certificate of Occupancy may be issued for a new structure or use for which site approval has been granted although not all conditions of said approval have been complied with. Such Temporary Certificate of Occupancy shall be issued only in extenuating circumstances and only with the approval of the Construction Official who shall establish specific terms and conditions, including, but not limited to, a time limit for the installation of the incomplete improvements and the receipt of an appropriate performance guarantee assuring the installation of the improvements as indicated on the approved plat or plan.
9. A monthly report of the Certificates of Occupancy issued shall be filed with the Tax Assessor. A record of all Certificates of Occupancy shall be kept in the office of the Construction Official and copies shall be furnished on request to any person having a proprietary or tenancy interest in the structure or land affected. The charge for each copy shall be established by resolution of the City Council except that there shall be no charge to a municipal agency.
10. The following shall be unlawful until a Certificate of Occupancy is issued by the Construction Official:
 - a. Occupancy and use of a building erected, constructed, restored, altered, moved, or any changes in use of an existing building.
 - b. Occupancy, use or change in use of vacant land.
 - c. Any change in the use of a non-conforming use.
 - d. Occupancy and use of any enlargement to an existing structure.

1004 SUBDIVISION APPROVAL CERTIFICATES

- A. A prospective purchaser, prospective mortgagee or any other person interested in any land in the City which has been part of a subdivision in effect as of July 14, 1973 may apply in writing to the Planning Board Secretary for the issuance of a certificate certifying whether or not such subdivision has been duly approved by the Planning Board.
- B. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof. A fee shall be paid to the Planning Board Secretary, on behalf of the City, for the requested certificate.
- C. The Planning Board Secretary shall make and issue such certificate within 15 days after receipt of the written application and accompanying fee. The Planning Board Secretary shall keep a duplicate copy of each certificate, consecutively

numbered, including a statement of the fee received, in a binder as a permanent record in his or her office.

D. Each certificate shall be designated a "Certificate as to Approval of Subdivision of Land" and shall certify:

1. Whether there exist a duly established Planning Board and whether there is a duly adopted Ordinance controlling the subdivision of land;
2. Whether the subdivision, as it relates to the land shown in the application, has been approved by the Planning Board and, if so, the date of such approval, any conditions attached to such approval and any extensions and terms thereof showing that the subdivision, of which the subject lands are a part, is a validly existing subdivision; and
3. Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirements of approval as provided in N.J.S.A .40:55 D-1 et seq. and as defined in this Ordinance.

1005 VIOLATIONS

In case any building or structure is erected, constructed, reconstructed, altered, moved or converted; or any building, structure or land is used in violation of, or contrary to, the provisions of this Ordinance, or any building, structure or land is used in violation of, or contrary to, any approved site plan or subdivision plat, including any conditions made thereto, the City may institute an action to enjoin or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, conversion or use. However, nothing in this Ordinance shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.

1006 PENALTIES

A. Fines

Any violation hereunder shall be considered an offense punishable by a fine not to exceed \$1,250.00 for each offense or imprisonment for a term not exceeding 90 days or both. The following rules shall apply in determining responsibility for violations and penalties:

1. The owner, general agent, contractor or occupant of a building, premises or part thereof where such a violation has been committed or does exist shall be guilty of such an offense.

2. Any agent, contractor, architect, engineer, builder, corporation or other person who commits, takes part or assists in such violation shall be guilty of such offense.
3. Each day that a violation continues after notification that it exists shall constitute a separate offense.
4. The imposition of penalties herein shall not preclude the City or any other person from instituting an action to prevent an unlawful construction, reconstruction, alteration, repair, conversion, or use or to restrain, correct or abate a violation, or to prevent the illegal occupancy of a building, land or premises.

B. Selling Land Before Final Subdivision Approval

1. If, before final subdivision has been granted, any person, as owner or agent, transfers or sells or agrees to transfer or sell any land which forms a part of a subdivision for which municipal approval is required in accordance with the provisions of this Ordinance, except pursuant to an agreement expressly conditioned on final subdivision approval, such person shall be subject to a penalty not to exceed \$1,250.00, and each lot disposition so made may be deemed a separate violation.
2. In addition to the foregoing, the City may institute and maintain a civil action:
 - a. For injunctive relief.
 - b. To set aside and invalidate any conveyance made pursuant to such a contract or sale, if a certificate of compliance has not been issued in accordance with N.J.S.A.40:55D-56.

1007 SEVERABILITY

If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.