

ORDINANCE 2019-05

**AN ORDINANCE OF THE BOROUGH OF BAY HEAD,
COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING
AND SUPPLEMENTING THE MUNICIPAL CODE OF THE
BOROUGH OF BAY HEAD, SO AS TO CREATE CHAPTER
101, ENTITLED “CERTIFICATES OF OCCUPANCY” AND TO
AMEND CHAPTER 147, ENTITLED “LAND USE”.**

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

SECTION 1. The Municipal Code of the Borough of Bay Head is hereby amended and supplemented so as to create Chapter 101, which shall be entitled “Certificates of Occupancy” and which shall read as follows:

§101-1 Certificate of occupancy required, new construction/renovation.

- A. No land shall be occupied or used and no building erected shall be occupied or used until a certificate of occupancy is issued. Certificates of occupancy shall be issued by the Construction Official in the manner prescribed in the Uniform Construction Code and signed by the Construction Code Official and the Zoning Officer. Such signatures shall certify that all applicable provisions of the New Jersey Uniform Construction Code and all requirements of Borough ordinances have been complied with in respect to the property or structure in question.
- B. Upon serving of notice by the Construction Code Official or Zoning Officer to the owner of any violation of any of the provisions or requirements with respect to any building or use thereof or of land, as specified in this chapter, a new certificate of occupancy shall be required for any further use of such building or land.
- C. No changes or extension of use shall be made of a nonconforming use or premises without a certificate of occupancy. Such certificates shall be applied for at the same time that the building permit is applied for and shall be issued or denied within 10 days after the erection or alteration of the building is completed.
- D. Any and all violations of the New Jersey Uniform Construction Code and or borough code must be abated before a certificate of occupancy is issued. No building or structure may be occupied or used until a certificate of occupancy is obtained.
- E. Fees. The fee for the issuance of a certificate of occupancy for new construction/renovation is provided in Chapter 104 of the Borough Code entitled “Construction Codes, Uniform.

§101-2 Certificates of occupancy required, Resale

- A. No property shall be sold and title transferred until the owner of the property to be sold obtains a transfer certificate of occupancy, issued by the Code Enforcement Officer of the Borough of Bay Head, certifying that the property to be sold complies with the current smoke and carbon monoxide detector requirements and all applicable zoning and property maintenance regulations in the Borough, and in accordance with all development approvals for the property.

B. Fees.

- (1) The fee for inspection of the property for a resale certificate of occupancy shall be \$100 per unit.
- (2) The fee for any subsequent re-inspection shall be \$15 per unit.

§101-3 Certificates of occupancy required, Residential Rental Units

- A. For the purposes of this chapter, a “rental residential structure or unit” shall be defined as any dwelling, dwelling unit, rooming unit, building or structure which the legal owner permits to be possessed or occupied by another person or party pursuant to a written or unwritten lease, agreement or license or pursuant to a recorded or unrecorded agreement of contract for sale of the land for all or part of any given year.
- B. The owner or owners of a rental residential structure or unit who intends to rents or lease all of any part thereof of the structure or unit shall make application to the Code Enforcement Officer for the issuance of a rental certificate of occupancy on such form and provide such information as may be required by the Code Enforcement Officer. The application shall be filed with the Code Enforcement Officer no less than 10 days prior to the intended rental occupancy of the unit or structure. The application shall have attached to it either of the following;
1. A true copy of the lease agreement setting forth the name, permanent address and telephone number of each tenant.
 2. An abstract of the lease agreement, setting forth the name, permanent address and telephone number of each tenant and the period for which the unit is being leased to such tenant. The abstract of the lease shall be verified by an affidavit signed by the landlord or an authorized agent thereof.
 3. In the event that the rental certificate of occupancy is applied for prior to the execution or preparation of a lease agreement, the landlord shall file either of the above documents within 10 days of the execution of the agreement.
- C. In the case of summer seasonal occupancy or occupancies, the rental certificate of occupancy will be in force for the period between May 1 and September 30 following the date of issuance. If such unit is leased between October 1 and May 1 of the following year, the owner(s) of such residential unit will be required to obtain a second rental certificate of occupancy to cover the aforesaid period. In all other cases, the certificate of occupancy will be in force until a change in tenant occupancy occurs or for a term of three years, whichever is sooner.
- D. Inspection required.
- (1) The owner or owners of any residential rental structure or unit shall be obligated to make the residential rental unit available for inspection by the Code Enforcement Officer immediately subsequent to the filing of an application for the issuance or reissuance of a rental certificate of occupancy or any reinspection required in connection with such application.
 - (2) Upon filing of an application with the Code Enforcement Officer for a rental certificate of occupancy, the Code Enforcement Officer and/or his duly authorized agents shall conduct an inspection of the rental residential unit. A re-inspection(s) as provided herein shall be made after the Code Enforcement Officer is notified, in writing, by the applicant that violations cited have been abated.
 - (3) Notice of any violation as a result of an inspection shall be provided in accordance with the Property Maintenance Code of the Borough of Bay Head.

Upon correction of the violations, the applicant shall notify the Code Enforcement Official, in writing, of said fact, and re-inspection shall be made upon payment of the appropriate fee.

E. If, subsequent to the issuance of a rental certificate of occupancy, the Construction Code Official or his duly authorized agents have cause to believe a violation of this Code exists, an inspection shall be made of the subject premises. If violations are found to exist, the provisions of the Property Maintenance Code shall apply. In addition thereto, if cited violations are not abated within 10 days from the service of notice, the rental certificate of occupancy shall be revoked by the Code Enforcement Officer by mailing a notice of revocations, by certified mail, to the owner or owner(s) and to the tenants of the premises. Thereafter, the premises shall be immediately vacated; provided, however, that the Code Enforcement Officer shall have the discretion to allow a longer period of time for the correction of violations, if warranted and reasonable under the circumstances.

F. Fees.

(1) The fee for inspection of the property for a rental certificate of occupancy shall be \$100 per unit.

(2) The fee for any subsequent re-inspection shall be \$15 per unit.

§101-4. Violations and penalties.

For a violation of any provision of this article, the maximum penalty, upon conviction thereof, shall be a fine not exceeding \$1,000 or imprisonment for up to 90 days or a period of community service not exceeding 90 days, or any combination thereof. Except as otherwise provided, each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.

SECTION 2. The Municipal Code of the Borough of Bay Head is hereby amended and supplemented so as to delete Chapter 147-16(2), which is entitled “Certificates of Occupancy” and to include language regarding the requirements to obtain a zoning permit. Chapter 147-16 entitled Administration shall read in its entirety as follows:

§147-16 Administration.

A. Enforcement. The provisions of this chapter shall be administered and enforced by the Zoning Officer of the borough. In no case shall a permit be granted for the construction or alteration of any building where the proposed construction, alteration or use thereof would be in violation of any provisions in this chapter. It shall be the duty of the Zoning Officer or his duly authorized assistants to cause any building, plans or premises to be inspected or examined and to order, in writing, the remedying of any conditions found to exist in violation of any provision of this chapter, and he has the right to enter any building or premises in the course of these duties.

B. Certificates and Permits

(1) Conditional use permits.

(a) Applications for any conditional use permit as permitted by this chapter shall be made to the approving authority in accordance with this chapter.

- (b) In approving any such application, the approving authority may impose any conditions that it deems necessary to accomplish the reasonable application of the standards set forth in this chapter and may deny any such application not in accordance with said standards.

(2) Zoning permit.

- (a) The applicant shall supply the Zoning Officer with all appropriate information necessary to make an informed determination under this chapter as well as all data required by the State Uniform Construction Code as to whether the application complies with the provisions of this chapter or variance there from duly authorized by the Planning Board.
- (b) If the Zoning Officer shall determine that said application conforms in all respects to the requirements of the land use ordinances he or she shall issue the Zoning Permit, sign, date and stamp all plans, and so advise the Construction Code Official.
- (c) If the Zoning Officer shall determine that said application does not conform in all respects to the requirements of the land use ordinances, he shall note in what respects the application does not conform and shall deny the application. The Zoning Officer shall notify the Construction Code Official of such denial, and shall advise the applicant of his or her right to apply to the Planning Board for an appropriate remedy.
- (d) Upon approval by the Planning Board of the appropriate action, the Planning Board shall forward a copy of the memorialized resolution to notify the Zoning Officer that the matter has been satisfactorily concluded. The Zoning Officer shall issue a zoning permit, sign, stamp and date all approved plans, and so advise the Construction Code Official. If the Planning Board shall deny the application, it shall advertise the denial as required by law and forward a copy of the memorialized resolution to notify the Zoning Officer that the matter has been denied.

(3) Records.

- (a) It shall be the duty of the Zoning Officer to keep a record of all applications for zoning permits issued and a record of all certificates of occupancy which he signs, together with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for the use of the Borough Council and of other officials of the Borough of Bay Head.
- (b) The Zoning Officer shall prepare a quarterly report for the Borough Council summarizing for the period since his last previous report all zoning permits issued and certificates signed by him and all complaints of violations and the action taken by him consequent thereon. A copy of each such report shall be filed with the Borough Tax Assessor at the same time it is filed with the Borough Council.

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 hereof.

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

ATTEST:

Patricia M. Applegate, Municipal Clerk

Introduced on First Reading:
Introduced on Second Reading:
Approved on Second Reading:

ATTEST:

Patricia M. Applegate, Municipal Clerk

APPROVED:

William W. Curtis, Mayor

April 1, 2019
May 6, 2019
May 6, 2019

APPROVED:

William W. Curtis, Mayor