

Ord.#17-2015
(Final Revision 5/21/15)

AN ORDINANCE OF THE TOWNSHIP OF MOUNT OLIVE, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, ESTABLISHING SPACE AND OCCUPANCY LIMITATIONS ON RESIDENTIAL HOUSING

WHEREAS, in order to insure the health, safety and welfare of all residences of the Township of Mount Olive, it is deemed necessary to establish minimum standards governing the condition and occupancy of residential premises and to establish minimum standards governing the physical components and conditions essential to make the aforesaid facilities fit for human habitation, use and occupancy.

BE IT ORDAINED by the Township Council of the Township of Mount Olive, in the County of Morris, State of New Jersey that a new Chapter 170 of the Mount Olive Township Code, entitled, “Space and Occupancy Requirements” is created as follows:

SECTION 1.

§170-1 Definitions

Bedroom: shall mean any room containing a bed or convertible bed used primarily for sleeping that contains at least one open able egress window facing directly to the outdoors or to a courtyard. Every bedroom must have access to at least one bathroom without passing through another bedroom. Bedrooms shall not constitute the only means of access to other bedrooms. Kitchens, bathrooms, closets, halls, storage or utility spaces, common areas, and similar areas shall not be utilized as bedrooms.

Common Areas: shall mean the rooms within the dwelling unit shared by all occupants for non-sleeping purposes.

Dwelling Unit: shall mean a building or part of a building consisting of a single unit, providing complete, independent living facilities, intended for occupancy as a residence for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Enforcement Officer: shall mean any Zoning Officer, Construction Code Official, Fire Inspector or Health Officer or his/her authorized designee.

Family: shall mean one or more persons who live together in one dwelling unit and maintain a common household and who are related by blood, marriage or adoption. For the purpose of this article, a "family" includes only a husband and wife, son, son-in-law, daughter, daughter-in-law, father, father-in-law, mother, mother-in-law, brothers and sisters, grandparents, grandchildren, stepchildren and adopted children and bona fide family servants living in and working full-time on the premises. For the purpose of this article, "family" shall also mean one or more persons, but not more than three persons, unrelated and unmarried to each other, but living together in one dwelling unit and maintaining a common household.

Habitable Space: shall mean a space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Living Space: shall mean the space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

Occupant: shall mean one or more persons customarily living together as a single housekeeping unit, whether related or not related to each other by birth or marriage, as distinguished from a group of individuals, not related, living together, financially independent of one another.

Permitted Occupancy: shall mean the number of individuals permitted to reside in the dwelling pursuant to the square footage of each bedroom as set forth in this Chapter.

Prohibited bedrooms: shall mean any room or space containing a bed, convertible bed, or used for sleeping purposes that does not meet the definition of bedroom as contained herein.

§170-2 Occupancy Standards

A. Minimum standards. All residential dwellings shall meet the following requirements.

1. Every bedroom occupied by an occupant shall contain at least 70 square feet of floor area and every bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each other occupant thereof.

2. Every bedroom shall have access to at least one bathroom without passing through another bedroom.

3. A bedroom shall not constitute the only means of access to other bedrooms or habitable space.

4. No kitchen, foyer, vestibule, or living area used in common by residents of a dwelling unit shall be used for sleeping purposes.

5. Every sleeping room shall have at least one openable emergency escape and rescue opening.

B. Basements for human habitation. Basements may be used for human habitation provided:

1. There is a minimum ceiling height of seven feet in at least 75 percent of living area.

2. There is sufficient light and ventilation and at least 50 percent is above grade.

3. All furnaces or other heating facilities are located separate and insulated from the living areas by fireproof partitions or walls necessary so that the same do not constitute an undue hazard to the safety and health of the occupants.

4. The habitable area is free from visible moisture and seepage at all times.

5. All habitable spaces and every sleeping room in the basement shall have at least one openable emergency escape and rescue opening.

§170-3 Occupancy Restrictions for Dwelling Units

A. A dwelling unit is in violation of exceeding the permitted occupancy if any of the following exist:

1. The dwelling unit contains prohibited bedroom(s).

2. The dwelling unit is one in which an overcrowding situation exists.

B. A dwelling unit in which a single family resides, that is technically considered to be in violation of exceeding the permitted occupancy, may not be subject to the violation. The occupants shall have the burden of proving that they are a single family.

§170-4 Inspections

A. All buildings and premises subject to this Chapter are subject to inspection, in the ordinary course of Township business, which circumstances include, but are not limited to, in response to a complaint, or other receipt by the Township of a notice of violation of this Chapter, or as otherwise lawfully required from time to time, by an Enforcement Officer of the Township of Mount Olive. At the time of inspection, all rooms in the building and all parts of the premises must be available and accessible for such inspection.

B. All Enforcement Officers shall be supplied with official identification issued by the Township of Mount Olive and upon request shall exhibit such identification when entering

any dwelling unit or any part of any premises subject to this code. All Enforcement Officers shall conduct themselves so as to avoid intentional embarrassment or inconvenience to occupants.

C. Where any Enforcement Officer is refused entry or access, is unable to obtain consent to inspect the premises, or is otherwise impeded or prevented from conducting an inspection, pursuant to this Chapter by the owner, operator or occupant of any premises, such public officer may, upon affidavit, apply to the Judge of the Municipal Court of the Township of Mount Olive for a search warrant. If the Judge of the Municipal Court is satisfied as to the matter set forth in said affidavit, and if he finds that probable cause for issuance of the search warrant exists, he shall authorize the issuance of a search warrant permitting access to and inspection of the particularly described building or all the buildings in a particularly described area.

Probable cause permitting the issuance of the aforesaid search warrant may include but is not limited to the nature or condition of the building or buildings, a valid public interest, including, but not limited to, the health, safety and welfare of the residents of the Township of Mount Olive, or a belief that a violation of this code is maintained.

D. If deemed necessary, due to extenuating circumstances, a search warrant is obtained from the Municipal Court of the Township of Mount Olive, pursuant to law, any inspection conducted in connection with that duly issued search warrant shall be accompanied by a uniformed police officer.

§170-5 Violations

A. The Enforcement Officer, on discovery of a violation of this Chapter, may immediately issue a summons, answerable in Municipal Court, to any person or entity who is in

violation of any section of this Chapter. For each and every violation, a separate summons may be issued.

B. The summons may be served personally or by certified mail, return receipt requested, at the last known address of the owner or any address made known to the Township of Mount Olive, and/or in the case of a violation by an occupant, may be posted on the door of the dwelling unit

C. An individual or entity found to be in violation of this Chapter shall be subject to a fine in an amount not to exceed \$500 for the first violation, \$1,000 for the second violation, and \$2,000 for all subsequent violations.

§170-6 Emergency Measures

Where violations or conditions on the premises constitute an immediate threat of life or limb unless abated without delay, the Enforcement Officer, may either abate the condition immediately or order the owner or occupancy to correct the violation or condition within a period of time not to exceed three (3) days, or upon failure to do so, the Enforcement Officer shall abate the condition immediately thereafter.

§170-7 Recovery of Costs

When the abatement of a condition so as to bring the premises into compliance with municipal ordinances or state law requires the expenditure of municipal funds, the appropriate Township Official shall present a report of the proposed work to the Township Administrator with an estimate of the cost thereof and a copy of the notices provided to the owner and/or occupant. The Township Administrator shall review and recommend the abatement of the condition the cost of which will be a municipal lien against the real property upon which such

cost was incurred as set forth in Chapter 185, entitled “Property Maintenance”, Section 35, entitled “Costs a municipal lien.”

§170-8 Referral of Other Violations

Any violation of any ordinance other than this Chapter discovered by an Enforcement Officer during an authorized inspection shall be reported to the official or agency responsible for enforcement of said other Ordinance.

Any Township Official who witnesses a violation of this Chapter during an authorized visit or inspection of a dwelling unit shall refer said violation to the appropriate Enforcing Officer for Inspection.

§170-9 Applicability

The provisions of this Chapter shall apply to every residential building situated in the Township of Mount Olive used or intended to be used for occupancy purposes, whether or not such building shall have been constructed, altered, or repaired before or after the enactment of this Code and their respective building permits or licenses which may have been issued for the use and occupancy of the building

SECTION 2. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 3. This ordinance may be renumbered for purposes of codification.

TOWNSHIP OF MOUNT OLIVE

Joe Nicastro, Mount Olive Council President

ATTEST:

Lisa Lashway, Township Clerk