

**BOROUGH OF OLD TAPPAN
ORDINANCE NO. 770-01**

**AN ORDINANCE SUPPLEMENTING THE CODE OF
THE BOROUGH OF OLD TAPPAN TO PROVIDE
REQUIREMENTS FOR PROPERTY MAINTENANCE**

BE IT ORDAINED by the Mayor and Council of the Borough of Old Tappan, County of Bergen, State of New Jersey, as follows:

Section 1. The Code of the Borough of Old Tappan is hereby supplemented by the addition of the following:

Chapter 190

PROPERTY MAINTENANCE

§ 190-1. Findings; Purpose.

- A. The Borough of Old Tappan hereby finds that certain unsafe, unsanitary, undesirable, and unhealthy conditions exist at various properties in the Borough.
- B. The public health, safety and welfare make it desirable to terminate unsafe, unsanitary, undesirable, and unhealthy conditions and to prevent other similar conditions from arising in the future on any properties in the Borough.
- C. The purpose of this chapter is to protect the health, safety and welfare of the residents of the Borough by establishing minimum standards governing the maintenance, appearance and condition of properties; to fix certain responsibilities and duties upon owners and operators; to authorize and establish procedures for the inspection of properties; and to fix penalties for violations of this chapter.
- D. This chapter is hereby declared to be remedial, and it is intended that this chapter be liberally construed to effectuate the purposes as stated herein.

§ 190-2. Definitions and Word Usage.

A. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE - A building or use that is on the same lot as and subordinate to the main building and which is under the same ownership or control as and used for a purpose customarily incident to the use of the main building.

BUILDING - Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

EXTERIOR PREMISES - Those portions of a building or structure which are exposed to public view or are visible from adjoining and adjacent lots, including all outside surfaces and appurtenances thereto and the open land space of any premises outside any building or structure erected thereon.

INFESTATION - The presence of or within a premises of any insects, rodents or other pests that present a safety hazard.

LITTER or RUBBISH - Nonputrescible solid wastes, consisting of both combustible and noncombustible wastes, such as, but not limited to, paper wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, auto parts, appliances, construction debris or similar materials.

NUISANCE - Any public or private condition that would constitute a nuisance according to the laws of the State or Borough ordinance, and specifically including, but not limited to, the following:

- (1) Any physical condition or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations or unsafe fences or structures.
- (2) Any premises that has unsanitary or defective sewerage or plumbing facilities.
- (3) Any premises designated as unsafe for human habitation.
- (4) Any premises that is considered to be a fire hazard or is unsafe or unsecured so as to endanger life, limb or property.
- (5) Any premises from which the plumbing, heating or facilities required by code have been removed, or from which utilities have been disconnected, destroyed or removed or rendered ineffective, or the required precautions against trespassers have not been provided.
- (6) Any premises that is unsanitary or littered with litter or rubbish.
- (7) Any structure that is in a state of dilapidation or decay; faulty construction; overcrowded; has excessive storage or is vacant or abandoned; damaged by fire to the extent so as not to provide shelter; in danger of collapse or failure; or dangerous to anyone on or near the premises.

OCCUPANT - Any person or persons, including the owner, in actual possession of and using a building or an occupancy unit in the building.

OPERATOR - Any person who has charge, care or control of a dwelling or premises, or a part thereof, whether with or without the knowledge and consent of the owner.

OWNER - Any person or persons or other entity who shall have legal or equitable title to any premises or part thereof, with or without accompanying actual possession thereof, or who

shall have charge, care or control of any lot, premises, building, structure or part thereof, as owner or agent of the owner, or a fiduciary, including but not limited to testamentary heirs, fiduciaries, trustees, receivers, guardians of an estate or of another, administrators or as mortgagees in possession.

PREMISES - A lot, plot or parcel, including the buildings or structures thereon, if any.

REFUSE - All putrescible and nonputrescible solid wastes, including, but not limited to, litter, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and parts thereof and solid market and industrial wastes.

- B. All terms and words used in this chapter shall be deemed and construed to include any other number, singular or plural, and other gender, masculine, feminine or neuter, as the context or sense of any paragraph or clause herein may require.

§ 190-3. Maintenance of Properties.

- A. Maintenance of Exterior Premises. The front and side yards shall be kept free of litter and all areas of the exterior premises shall be kept free of nuisances and hazards to the safety of tenants, occupants, pedestrians and other persons having access to the premises and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated. The word "hazards" shall include, but not be limited to, the following:

- (1) Refuse.
- (2) Dead and dying trees and other natural growth which, by reason of rotting or deteriorating conditions or storm damage, are or may be dangerous to persons in the vicinity thereof.

- (3) Loose overhanging and projecting objects which, by reason of location above ground level, constitute dangers to persons in the vicinity thereof.
- (4) Holes, mounds, excavations, breaks, projections, obstructions and excretions of pets and other animals on paths, sidewalks, walks, driveways, parking lots and parking areas and other parts of the exterior of the premises which are accessible to and used by persons having access to such premises.
- (5) Grass/weeds. All premises and exterior property shall be maintained free from weeds or lawn growth in excess of 10 inches, except that this requirement shall not apply to areas of natural growth that are not ordinarily maintained, such as, without limitation, areas containing wetlands or marshes, or densely wooded areas. All noxious weeds shall be prohibited.

B. Exterior Condition.

- (1) Signs. All signs, including the structural and supporting components thereof, and all light stanchions and poles shall be maintained so as to not constitute a nuisance of a safety hazard.
- (2) Awnings. Any awning and its accompanying structural members shall be maintained so as to not constitute a safety hazard.

C. General Sanitation and Safety.

- (1) No person shall throw or deposit litter on any open or vacant property within the borough, whether owned by such a person or not.
- (2) Rubbish and garbage shall be placed or kept on the property within the building located thereon or not nearer to the street line than the face of the building, except

that, garbage or other items that may be picked up may be placed at the curb on the night before the scheduled pickup.

- D. Storage of Vehicles, Boats, and Machinery. All persons shall comply with the provisions of Chapter 239 of the Code, entitled "Abandoned Motor Vehicles." It shall be unlawful for any owner, operator or occupant of lands in the Borough to store, place, keep, park or accumulate upon such lands any boats or machinery or vehicle parts in need of repair so as not to be readily operated under their own power, requiring substantial repairs or not currently licensed or not being currently used.

§ 190-4. Administration and Enforcement.

A. Interpretation.

- (1) In any case where the provisions of this chapter impose a stricter or higher standard than set forth in any other ordinance or regulation of the Borough or under the laws or regulations of the State of New Jersey or any of its agencies, then standards set forth herein shall prevail, but if the provisions of this chapter impose a lower or less standard than any other regulation or ordinance of the Borough or of the laws or regulations of the State of New Jersey or any of its agencies, then the higher standard contained in any such other ordinance, regulation or law shall prevail.
- (2) Compliance with this chapter shall not constitute a defense against a violation of any ordinance of the Borough applicable to any structure or premises, nor shall any one act of compliance constitute a defense against any subsequent or other violation of this chapter.

- B. Enforcement Officers. The Zoning Officer, Construction Official, Health Officer, Fire Official and the police of the Borough of Old Tappan are hereby designated as the public officers to exercise the powers prescribed by this chapter, and are hereby designated as enforcement officers.
- C. Enforcement Procedures. Whenever the enforcement officer determines that there is or has been a violation of any provisions of this chapter, he or she shall give notice of such violation to the person or persons or entities responsible therefor under this chapter. Such notice shall be in writing and shall include a concise statement of the reasons for issuance. Such notice shall be deemed properly and sufficiently served if a copy thereof is sent by registered or certified mail to the last known address of the person or entity upon which the same is served, as shown by the current tax records of the Borough; or a copy thereof handed to said person or persons; or a copy thereof left at the usual place of abode or office of said person or entities. Notice shall be given as aforesaid, within or without the Borough. The notice shall also state that, unless the violation is abated, removed, cured or prevented within 10 days of the date of service of such notice (exclusive of the date of service), a summons shall be issued for such violations. The enforcement officer may, at the time he issued the notice, extend the period for compliance with the violation stated in the notice for a period in excess of the aforesaid 10 days if, in his or her judgment, the abatement, removal, prevention, cessation of or cure of the condition violated cannot reasonably be affected within the 10 day period. In the event the violation is not abated, removed, cured, prevented or otherwise fully remedied within said 10 day period or within such extended period as set forth in the notice

pursuant to this subsection, a summons shall then be issued against the person, persons, entity or entities so notified.

- D. Responsibilities of Owners, Operators and Occupants. Owners, operators and occupants shall have all the duties and responsibilities as prescribed in this chapter and shall not be relieved from any such duties and responsibilities nor be entitled to defend against any charge of violation thereof by reason of the fact that another party may also be responsible therefor and in violation thereof. Responsibilities of owners, operators and occupants shall not be altered or affected by any agreement or contract by and between any of the them or between them and other parties.
- E. Emergency Conditions. Whenever the enforcement officer finds that an emergency condition in violation of this chapter exists, which condition requires immediate attention in order to protect the public health or safety, he or she may issue an order by service of notice as set forth above reciting the existence of such an emergency condition and requiring that such action be taken by the violator as soon as it is reasonably necessary to meet the emergency. Notwithstanding any other provisions of this chapter, such order shall be effective immediately.
- F. Failure to Comply; Abatement by Borough. Where the abatement of any condition as described herein, correction of a defect in the premises or work necessary to place the premises in a proper condition, so as to conform to this chapter or any other ordinance of the Borough or applicable laws of the State of New Jersey, shall not have been completed within the period required by the notice from the enforcement officer, the enforcement officer shall present a report of work proposed to be done to accomplish the foregoing to the Mayor and

Council with an estimate of the cost, along with a summary of the proceedings undertaken by the enforcement officer to secure compliance, including notices served upon the occupants, owners, or operators, as the case may be. The Mayor and Council may thereupon, by resolution, authorize the abatement of the nuisance or the correction of the defect or work necessary to place the premises in proper condition and in compliance with this chapter. The enforcement officer may thereafter cause the work to be performed in accordance with the resolution at Borough expense, not to exceed the amount specified in the resolution, and shall, upon completion thereof, submit a report of the moneys expended and costs to the Mayor and Council. After a review of the report, the Mayor and Council may approve the expenses and costs, whereupon the same shall become a lien against the premises, collectible as provided by law. A copy of the resolution approving the expenses and costs shall be certified by the Borough Clerk and filed with the Tax Collector of the Borough, who shall be responsible for the collection, and a copy of the report and resolution shall be sent by certified mail, return receipt requested, to the owner.

- G. Applicability to Zoning. Nothing contained in this chapter or any requirement of compliance herewith shall be deemed to alter, impair or affect the application of Chapter 255 "Zoning" or any other provisions of the Borough's ordinances.

§ 190-1. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine or not less than \$100.00 nor more than \$1,000.00, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of

the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense.

Section 2. Repealer.

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflicts.

Section 3. Severability.

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Old Tappan declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 4. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.