

## CERTIFICATE OF OCCUPANCY REQUIREMENTS

In accordance with §39-213 and §90-16 of the Code of the City of Rochester, a Certificate of Occupancy is required under the following conditions:

### Chapter §39-213

- A. All new buildings constructed;
- B. All existing buildings as follows:
  - Enlargements, extensions, or alterations by adding additional story in height and/or increasing the ground area
  - Changes in occupancy
  - Changes in the use of property
  - Conversions
  - Home occupations (Zoning regulation §120-139;
  - Move or relocation of a structure

### Chapter §90-16

A Certificate of Occupancy is required for buildings when there is:

- A. A transfer of title of any two-family dwelling where a C of O has **not** been issued within the past two years;
- B. A reoccupation of a building with dwelling units that have been entirely vacant for over two months, unless a C of O has been issued within the past year;
- C. A change of occupancy or use;
- D. The expiration or termination of a valid C of O;
- E. A change in occupancy whereby the owner or a spouse child, sibling, or parent of the owner no longer occupy a one-family dwelling,

### C of O Waiver §90-16B

The Commissioner shall waive the requirements of a Certificate of Occupancy when the title of a two-family structure is transferred in any of the following situations:

- |    |                                    |    |                                       |
|----|------------------------------------|----|---------------------------------------|
| A. | in settlement of an estate;        | H. | Between husband and wife;             |
| B. | In lieu of foreclosure;            | I. | To the former owner;                  |
| C. | By a court-appointed referee;      | J. | When a company reorganizes;           |
| D. | By a trustee in bankruptcy;        | K. | By a corporation or its shareholders; |
| E. | When settling matters of credit;   | L. | To HUD;                               |
| F. | Pursuant to a judicial sale        | M. | By a person who retains life use of   |
| G. | When the City or County forecloses |    | and/or interest in the property.      |

Owners of a one or two-family dwelling occupied by a Section 8 tenant and inspected by the Rochester Housing Authority (RHA) can apply for a waiver from the unit's interior inspection in question during the C of O process. To secure the waiver, the owner must apply for the C of O, have the exterior and any interior area of the structure not occupied by the Section 8 tenant inspected, complete a waiver form, and submit an RHA inspection report that indicates the unit passed an inspection within a year before the date of application and where no interior deteriorated paint was identified on the initial inspection report from RHA.

### **C of O Exemptions §90-16C**

One and two-family dwellings occupied by the owner and those owned and operated by the Rochester Housing Authority are exempt from the C of O requirement.

Owners whose parent, child, spouse, or sibling occupies a one, or two-family dwelling can apply for an exemption from the C of O requirement. The owner must submit a completed exemption form to secure this exemption and prove the occupancy's relevant relationship and proof. Once approved, this exemption must be renewed every three years.

### **Conditional C of O's §90-16D, §39-217**

The Commissioner may issue a Conditional Certificate of Occupancy for a building that will not jeopardize the life and safety of any occupant(s) and which meets all of the following criteria:

1. The inspected area of the permit, or the dwelling if a renewable C of O is near substantial compliance with all applicable codes;
2. The work required to bring the building into full compliance is not essential to make the building habitable;
3. Space complies with the Zoning Code;
4. The present or prospective owner has submitted a Conditional C of O application, listing the work to be completed, date of completion, and the required fee has been paid;
5. All health and safety violations have been abated within the unit(s) to be occupied;
6. All needed fire and smoke detecting or fire protection equipment and all means of egress are in compliance.

### **Partial C of O's §39-218**

At the discretion of the Commissioner, a partial certificate of occupancy may be issued when permanent occupancy of a portion of the building is required before the entire work covered under the building permit is completed, if the following conditions have been met:

- The portion of the building to be occupied is in substantial compliance with all applicable codes
- The portion of the building to be occupied complies with the Zoning Code
- Partial occupancy will not endanger life safety, public health, or welfare
- The Partial C of O application has been submitted, and the fee, if applicable, has been paid for

### **C of O Renewal Process**

Each month a projected list of expired C of O's is produced via a computer-generated SAS report. This list is used to send out renewal letters and a partially completed C of O application to the identified property owner. Owners must submit the renewal application within 40 days, or the applicable fee is doubled in accordance with §39-222C (3). Once a renewal letter has been sent, an expired C of O case is created and assigned to the area Code Enforcement Officer and scheduled for an inspection in sixty days. Upon receiving the expired C of O case, if the owner has not applied for the necessary C of O or secured an exemption from this

requirement, the inspector will inspect the premises' exterior from the right of way. The inspector will then issue a notice and order, citing any exterior violations found as well as Failure to Obtain a C of O (PC008). Once the notice and order have expired, and the owner still has not applied for the required C of O or secured an exemption, the case can be placed into enforcement according to Policy #23 - Code Enforcement.

Once an owner applies to renew their C of O, that application will remain active to issue the C of O until all violations have been abated or until the C of O is issued or the property transfers ownership. In this case, the case type shall be changed to survey, and the new owner must submit a new application in their name and pay the applicable fees.