

BUILDINGS, UNFIT

Chapter 38

BUILDINGS, UNFIT

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[HISTORY: Adopted by the Township Committee of the Township of Union (now Barnegat): Article I, 8-4-75 as Ord. No. 1975;' Article II, 11-1-82 as Ord. No. 1982-32. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 39.

Property maintenance — See Ch. 63.

Be it ordained by the Township Committee of the Township of Union (now Barnegat), in the County of Ocean and State of New Jersey:

A R T I C L E I

Housing Standards

[Adopted 8-4-75 as Ord. No. 1975-10;

Amended 11-1-82 by Ord. No. 1982-32]

§ 38-1. Enforcement officer.

The Building Inspector of the Township of Barnegat be and he is hereby designated as the officer to exercise the powers prescribed by this ordinance and he shall serve in such capacity without additional compensation.

¹Editor's Note: This ordinance also repealed former Ch. 38, Buildings and structures, Dangerous, adopted 1-3-63, as amended 9-2-71 and 9-17-73.

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§ 38-2. Adoption of standards.

Pursuant to the provisions of Chapter 21, P.L. 1946 (N.J.S.A. 40:49-5.1), the New Jersey State Housing Code. as approved by

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the Departments of Health and Conservation and Economic Development and filed in the Secretary of State's office, is hereby accepted, adopted and established as a standard to be used as a guide in determining whether dwellings in this municipality are safe, sanitary and fit for human habitation and rental. A copy of the New Jersey State Housing Code is annexed to this ordinance, and three (3) copies of the same have been placed on file in the office of the Barnegat Township Clerk and are available to all persons desiring to use and examine the same.

§ 38-3. Right of entry for inspections.

- A. The Building Inspector is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the Township of Barnegat in order that he may perform his duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, the Building Inspector is hereby authorized to enter, examine and survey, at all reasonable times, all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit and rooming unit or the person in charge thereof shall give the Building Inspector free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof or his agent or employee access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of

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this ordinance or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this ordinance.

- B. Before any such inspection is made, written notice shall be served by the Building Inspector by certified mail, return receipt requested, and received by the owner and, where the occupant is a person other than the owner, by the occupant, at least forty-eight (48) hours before the proposed inspection. The inspection shall be conducted only between the hours of 10:00 a.m. and 4:00 p.m., and the notice shall give notice not only of the date of inspection, but also of the hour of the proposed inspection. Where the owner or occupant shall request an extension of the inspection time, the Building Inspector shall grant such request and the building shall be inspected at the owner's or occupant's convenience within ten (10) days from the date of the originally scheduled inspection. [Added 8-4-75 by Ord. No. 1975-18]

§ 38-4. Notice of violation; hearing.

- A. Whenever the Building Inspector determines that there are reasonable grounds to believe that there has been a violation of any provision of this ordinance or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefor as hereinafter provided. Such notice shall be put in writing, include a statement of the reasons why it is being issued, allow a reasonable time for the performance of any act it requires and be served upon the owner or his agent or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent or upon such occupant if a copy thereof is served upon him personally or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice or if he is served with such notice by any other method authorized or required under the laws of this state. Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions

of this ordinance and with rules and regulations adopted pursuant thereto.

- B. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this ordinance or of any rule or regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Township Committee, provided that such person shall file in the office of the Clerk of Union Township a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. Upon receipt of such petition the Clerk of Union Township shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed; provided that upon application of the petitioner, the Township Committee may postpone the date of the hearing for a reasonable time beyond such ten-day period if in its judgment the petitioner has submitted a good and sufficient reason for such postponement. After such hearing the Township Committee shall sustain, modify or withdraw the notice, depending upon its findings as to whether the provisions of this ordinance and of the rules and regulations adopted pursuant thereto have been complied with. If the Township Committee sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this ordinance shall automatically become an order if a written petition for a hearing is not filed in the office of the Clerk of Union Township within ten (10) days after such notice is served.
- C. The proceedings at such hearing, including the findings and decision of the Township Committee, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Clerk of Union Township. Such record shall also include a copy of every notice or order issued in connection with the matter.

- D. Any person aggrieved by the decision of the Township Committee may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the state.
- E. Whenever the Building Inspector finds that an emergency exists which requires immediate action to protect the public health or safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this ordinance, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately but, upon petition to the Township Committee, shall be afforded a hearing as soon as possible. After such hearing, depending upon its findings as to whether the provisions of this ordinance and of the rules and regulations adopted pursuant thereto have been complied with, the Township Committee shall continue such order in effect, modify it or revoke it.

§ 38-5. Adoption of rules and regulations.

The Building Inspector is hereby authorized and empowered to make and adopt such written rules and regulations as he may deem necessary for the proper enforcement of the provisions of this ordinance; provided, however, that such rules and regulations shall not be in conflict with the provisions of this ordinance nor in anywise alter, amend or supersede any of the provisions thereof. The Building Inspector shall file a certified copy of all rules and regulations which he may adopt in his office and in the office of the Clerk of the Township of Union.

§ 38-6. Occupancy or rental of nonconforming dwellings.

No person shall occupy as owner-occupant or rent to another for occupancy any dwelling or dwelling unit for the purpose of living therein, which unit does not conform to the provisions of the New Jersey State Housing Code, established hereby as the standard to

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be used in determining whether a dwelling is safe, sanitary and fit for human habitation.

§ 38-7. Violations and penalties.

Any person, firm or corporation that shall violate any of the provisions of this ordinance shall, upon conviction, be punished by a fine not to exceed five hundred dollars (\$500.) or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment; and each violation of any of the provisions of this ordinance and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

§ 38-8. Repealer; when effective.

All other ordinances or parts of ordinances in conflict or inconsistent with this ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, and this ordinance shall be in full force and effect immediately upon its adoption and its publication, as provided by law.

§ 38-9. Severability.

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared to be severable.

§ 38-10. Exempt structures. [Added 8-4-75 by Ord. No. 1975-28]

The provisions of this Housing Code shall not apply to any owner-occupied, single-family, residential structure, and all such owner-occupied, single-family, residential structures shall be exempt from the terms and conditions of this Housing Code.

ARTICLE II

Repair or Demolition of Unfit Buildings

[Adopted 11-1-82 as Ord. No. 1982-32]

§ 38-11. Preamble.

It has been found that there exists in this township buildings which are unfit for human habitation or occupancy or use, due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, or due to other conditions rendering such buildings unsafe or unsanitary and dangerous and detrimental to the health and safety and otherwise inimical to the welfare of the residents of this township.

§ 38-12. Administration by Construction Code Official.

The Construction Code Official is hereby designated and appointed to exercise the powers prescribed by this ordinance.

§ 38-13. Petition charging unfit state.

Whenever a petition shall be filed with the Construction Code Official by a public authority, or by at least five (5) residents of the township, charging that any building is unfit for human habitation, or whenever it appears to the Construction Code Official that any building is unfit for human habitation or occupancy or use, the Construction Code Official shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Construction Code Official or his designated agent at a place therein fixed, not less than seven (7) days nor more than thirty (30) days after the service of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear *in person*, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Construction Code Official, or his designated agent.

§ 38-14. Order to repair or demolish.

If, after such notice and hearing, the Construction Code Official determines that the building under consideration is unfit for human habitation, or occupancy or use, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest an order:

- A. If the repair, alteration or improvement of the building can be made at a reasonable cost in relation to the value of the building, requiring the owner to the extent and within the time specified in order to repair, alter or improve the building to render it fit for human habitation, or occupancy or use, or, at the option of the owner, to vacate or close the building as a human habitation; or
- B. If the repair, alteration or improvement of the building cannot be made at a reasonable cost in relation to the value of the building, requiring the owner within the time specified in the order to remove or demolish such building.

§ 38-15. Owner fails to comply; action by Construction Code Official.

If the owner fails to comply with the order to alter, repair or improve or, at the option of the owner, to vacate and close the building, the Construction Code Official may cause such building to be repaired, altered or improved, or to be vacated and closed; thereupon the Construction Code Official may cause to be posted on the main entrance of such building so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building is prohibited and unlawful."

§ 38-16. Owner fails to remove or demolish; public officer may cause building to be removed or demolished.

If the owner fails to comply with the order to remove or demolish the building, the public officer may cause such building to be **removed** or demolished or may contract for the removal or demolition thereof after advertisement for, and receipt of, bids therefor.

§ 38-17. Cost to be municipal lien.

The amount of the cost of the filing of legal papers, expert witnesses's fees, search fees and advertising charges, incurred in the course of any proceeding taken under this section determined in favor of the township, and the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which such cost was incurred. If the building is removed or demolished by the public officer, he shall sell the materials of such building. There shall be credited against the cost of the removal or demolition thereof, including the clearance and, if any, leveling of the site, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Municipal Tax Assessor or other custodian of the records of tax liens, and a copy thereof shall be forthwith forwarded to the owner by registered mail. If the total of the credits exceeds such costs, the balance remaining shall be deposited in the Superior Court by the public officer, shall be secured in such manner as may be directed by such Court, and shall be disbursed according to the order of judgment of the Court to the persons found to be entitled thereto by final order or judgment of the Court. Any owner or party in interest may, within thirty (30) days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.

§ 38-18. Condition that determines unfit state.

The Construction Code Official shall determine that a building is unfit for human habitation, occupancy or use if it finds that conditions exist in such building which are dangerous or injurious to the health and safety of the occupants of such building, the occupants of neighboring buildings or other residents of the

township; such conditions may include the following without limiting generally any of the following: defects therein increasing the hazards for fire, accident or other calamity, lack of adequate ventilation, light or sanitary facilities, dilapidation, disrepair, structure defects and uncleanness.

§ 38-19. Manner of serving complaints.

Complaints or orders issued by the Construction Code Official pursuant to this ordinance shall be served upon persons either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the Construction Code Official in the exercise of reasonable diligence, then the Construction Code Official shall make an affidavit to that effect, and service of such complaint or order upon such person may be made by publishing the same once each week in a newspaper circulating and published in the township, or in the absence of such newspaper, in one printed and published in the county and circulated in the township in which the buildings are located. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall be duly recorded or lodged for record in the County Recording Office in which the building is located.

§ 38-20. Authority and duty of Construction Code Official.

The Construction Code Official or his designated subcode officials shall be responsible for carrying out the purposes and provisions of this ordinance, and in doing so have the authority to:

- A. Investigate the building conditions in the township from **time** to time in order to determine which buildings therein are unfit for human habitation, occupancy or use.
- B. Administer oaths and affirmations, examine witnesses and **receive evidence**.
- C. Enter upon premises for the purpose of making examinations, provided that such entry shall be made in

such manner as to cause the least possible inconvenience to the persons in possession.

- D. Appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this section.
- E. Delegate any of its functions and powers under the section to such persons or agents as it may designate.

§ 38-21. Judgment for demolition.

If an actual or immediate danger to a life is posed by the threatened collapse of any fire damaged or other structurally unsafe building, the Construction Official may, after taking such measures as may be necessary to make such building temporarily safe, seek a judgment in summary proceedings for the demolition thereof.

§ 38-22. Construal.

Nothing in this ordinance shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, nor is anything in this ordinance intended to limit the authority of the enforcing agency or Construction Official on the State Uniform Construction Code Act, P.L. 1975, c. 217, or any rules or regulations adopted thereunder.