

ORDINANCE 2012-1109

AN ORDINANCE TO REGULATE UNSAFE BUILDINGS

Article I. Definitions

The following terms, whenever used or referred to in this Ordinance, shall have the following respective meanings for the purposes of this Ordinance unless a different meaning clearly appears from the context:

- a. "Governing body" shall mean the Borough Council of the Borough of Manville.
- b. "Public official" shall mean the Construction Code Official, the Property Maintenance Officer, the Health Officer or their designees, all of whom are authorized by ordinance adopted hereunder to exercise the powers prescribed by this ordinance and by this act.
- c. "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the municipality, county or State relating to health, fire, building regulations, or to other activities concerning buildings in the municipality.
- d. "Owner" shall mean the holder or holders of the title in fee simple.
- e. "Parties in interest" shall mean all individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.
- f. "Building" shall mean any building or structure or part thereof, whether used for human habitation or otherwise, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Article II. Unsuitable for Habitation or Use

Section 1. Designation of enforcing officer.

The Public official of the Borough of Manville is hereby designated and appointed to exercise the powers prescribed by this chapter, pursuant to the provisions of N.J.S.A. 40:48-2.3 et seq.

Section 2. Determination of building as unfit; procedure.

- A. Whenever a petition is filed with the Public Official by a public authority or by at least five residents of the municipality, charging that any building is unfit for human habitation or occupancy or use, or whenever it appears to the Public Official (on his own motion) that any building is unfit for human habitation or occupancy or use, the Public Official shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner or the parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Public Official or his designated agent, at a place therein fixed, not less than 10 days nor more than 30 days after the service of said complaint.
- B. 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 give testimony at the place and time fixed in the complaint.
- C. The Public Official may determine that a building is unfit for human habitation, occupancy or use if he finds that conditions exist in such building which are dangerous or injurious to the health or safety of the occupants of such building, the occupants of neighboring buildings or other residents of the Borough of Manville.

Section 3. Issuance of order to repair, improve or remove building.

- A. If, after notice and hearing as set forth in Section 2A and B, the Public 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 requiring the repair, alteration or improvement of said building to be made by the owner within a reasonable period of time as established by the Public Official, but not to exceed 30 days, or permitting the owner, at his option, to vacate or have said building vacated and closed within the time set forth in the order.

- B. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises and the owner fails to repair, alter or improve said building within the time specified in the order, then the owner shall be required to remove or demolish said building within a reasonable period of time as established by the Public Official, but not to exceed 30 days, as specified in the order of removal.

Section 4. Failure to repair, improve or remove.

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

Section 5. Work done by Borough; costs as liens; contesting of costs.

- A. The amount of the cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceeding taken under this act determined in favor of the municipality and such 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.
- B. If the building is removed or demolished by the Public Official, he shall sell the materials of such building. There shall be credited against the cost of the removal or demolition thereof, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building.
- C. If there are no such credits set forth in Subsection B above 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.
- D. If the total of the credits exceed such costs, the balance remaining shall be deposited in the Superior Court by the Public Official and shall be secured in such manner as may be directed by such court and shall be disbursed according to the order or judgment of the court to the persons found to be entitled thereto by final order or judgment of such court; provided, however, that nothing in this section 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.
- E. Any owner or party in interest may, within 60 days from the date of the filing of the lien certificate set forth in Subsection A above, 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.

Section 6. Additional powers of Public Official.

The Public Official for the Borough of Manville is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

- A. To investigate the building conditions in the municipality in order to determine which buildings therein are unfit for human habitation or occupancy or use.
- B. To administer oaths, affirmations, examine witnesses and receive evidence.
- C. To enter upon premises for the purpose of making examinations, provided that such entry shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.
- D. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter.
- E. To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

Article III. Abatement of Nuisances; Correction of Defects

Section 7. Authority.

A. Authority. This article is enacted pursuant to N.J.S.A. 40:48-2.12(a) which authorizes the governing body of a municipality to make an ordinance to regulate buildings and structures and their use and occupation to prevent and abate conditions therein harmful to the health and safety of the occupants of said buildings and structures and the general public in the municipality:

- (1) Inspection. Authority to conduct inspections of buildings, under this article, to insure the health, safety and welfare of the municipality and its residents is as set forth in N.J.S.A. 40:48-2.12(a)l.
- (2) Article as supplement to other authorities. Pursuant to N.J.S.A. 40:48-2.12(b), the authority conferred by this article shall be in addition to authorities heretofore or hereafter conferred on the governing bodies of municipalities with respect to the construction and maintenance of buildings and structures, local health ordinances and the removal or destruction of buildings and structures and parts thereof endangering the public health and safety.

Section 8. Abatement of nuisance; correction of defect; lien against premises.

The Borough Council, by resolution of its governing body, may abate a nuisance, correct a defect or put the premises in proper condition so as to comply with the requirements of any municipal ordinance or state law applicable thereto, at the cost of the owner or lessor, and expend municipal funds for such purpose and charge the same against the premises, and the amount thereof as determined by the governing body of the municipality shall be a lien against the premises.

Section 9. Service of notice.

Services of notices under this chapter shall be made upon the owner, lessor or agent. In the event of inability to serve the owner, lessor or agent after reasonable effort, sufficient notice shall be deemed to have been given if such notice is posted upon the premises in a conspicuous place.

Section 10. Public meetings.

Prior to the public meeting at which the Borough Council may adopt a resolution pursuant to Section 10 hereinabove, notice shall be provided to the owner, lessor or agent as to the action which may be taken by the Borough Council. Said owner, lessor or agent shall be given the opportunity to appear at that meeting and present any and all arguments in opposition to the proposed resolution.

Section 11. Collection of fines and penalties.

Any person who violates any provision of this article shall, upon conviction thereof be punished by a fine not exceeding \$1,250 or by imprisonment for a term not exceeding 90 days, or both. A separate offense shall be deemed committed for each day during or on which a violation occurs or continues.

Section 12. Appointment of custodian.

The Borough Council may appoint a custodian of any such building or structure who may be either an officer of the municipality or any other person specially designated to enter into and take charge of the premises and supervise the abatement of the nuisance, the correction of the defective condition or the maintenance of the premises in a proper condition so as to conform to the requirements of municipal ordinances and state laws applicable thereto. In any case, reasonable compensation shall be paid to the custodian, and the cost and expenses shall be collectable as provided in Section 10 hereinabove.

Section 13. Applicability.

The within article is intended to apply with respect to nuisances, defects, etc. involving the use, storage, sale and disposal of inflammable or combustible materials so that the protection of life and property from fire, explosions and other dangers is provided for. Inspection to assure such protection shall involve buildings, warehouses and other places and premises where goods and materials are contained.

Section 14. Enforcement.

The enforcement officer for the article shall be the Borough Construction Code Official, the Property Maintenance Officer, the Health Officer, the Zoning Officer or their designees, or such other municipal official as may be designated by resolution of the Borough Council.

Article IV.

Section 15. Inconsistency.

Should any provision of this ordinance be inconsistent with the provisions of any prior ordinances, the inconsistent provisions of said prior ordinances are hereby repealed, but only to the extent of such inconsistencies.

Section 16. Severability.

In the event that any provision of this ordinance, or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this ordinance which may be given effect and, to realize this intent, the provisions and applications of this ordinance are declared to be severable.

Section 17. Purpose of Captions

Captions contained in this ordinance have been inserted only for the purpose of facilitating reference to the various sections, and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

Section 18. Effective Date

This ordinance shall take effect immediately upon final adoption and publication in accordance with the laws of the State of New Jersey.

STATEMENT OF PURPOSE

The purpose of this ordinance is to enable the Borough of Manville to repair, close or demolish or cause or require the repairing, closing or demolition of dangerous, unsafe, unsanitary buildings.

Borough of Manville,



Angelo Corradino, Mayor

Dated: March 26, 2012

ORDINANCE #2012-1109

FIRST READING:

Introduced	Seconded	Council	Yes	No	Abstain	Absent
√		ASHER	√			
		KOMOROSKI	√			
		LYNN	√			
		ONDERKO	√			
		PETZINGER				√
	√	SZABO	√			
		MAYOR CORRADINO				

PASSED this 12th day of March, 2012

Philip E. Petrone

Attest:

Philip E. Petrone, Borough Clerk

SECOND READING:

Introduced	Seconded	Council	Yes	No	Abstain	Absent
√		ASHER	√			
	√	KOMOROSKI	√			
		LYNN	√			
		ONDERKO	√			
		PETZINGER	√			
		SZABO	√			
		MAYOR CORRADINO				

PASSED this 26th day of March, 2012

Philip E. Petrone

Attest:

Philip E. Petrone, Clerk