

ORDINANCE NO. 2025-11

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER,
SALEM COUNTY, STATE OF NEW JERSEY, AMENDING CHAPTER 10
ENTITLED "PROPERTY MAINTENANCE" OF THE CODE OF THE BOROUGH OF ELMER**

WHEREAS, the Mayor and Council of the Borough of Elmer have determined that certain amendments to Chapter 10 entitled "Property Maintenance" are necessary to address unfit buildings; and

WHEREAS, in all other respects Chapter 10 entitled "Property Maintenance" shall remain in full force and effect;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Elmer, County of Salem and State of New Jersey, and it is hereby enacted and ordained by the authority of same as follows:

Section 1. Chapter 10 entitled "Property Maintenance" shall be amended as follows:

§10-9 UNFIT BUILDINGS.

§10-9.1 Purpose.

There exists in the Borough of Elmer buildings which are unfit for human habitation, occupancy or use, due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, lack of sanitary facilities or due to other conditions rendering the building or buildings or part thereof unsafe or unsanitary or dangerous or detrimental to the safety or otherwise inimical to the welfare of the residents of the Borough. The Borough has the power pursuant to N.J.S.A. 40:48-2.3 et. seq., as amended, to exercise its police powers to repair, close or demolish or cause or require the repairing, closing or demolition of such building or buildings or part thereof in the manner herein provided.

§10-9.2 Definitions.

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

- a. "Borough" means the Borough of Elmer in Salem County, New Jersey.
- b. "Building" means any building or structure, or part thereof, whether used for human habitation or otherwise, and includes any accessory buildings and appurtenances belonging thereto or usually enjoyed therewith.
- c. "Dwelling" means a building or structure, or part thereof, containing one or more dwelling units or lodging units.
- d. "Dwelling unit" means a building or portion thereof providing living facilities for one or more persons.
- e. "Governing body" means the Borough Council of the Borough of Elmer.

- f. "Owners" means the holder or holders of title in fee simple.
- g. "Parties in interest" means all individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.
- h. "Public authority" means any housing authority or any construction code 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.
- i. "Public officer" means the officer, officers, board or body who is or are authorized to exercise the powers prescribed by such ordinances and by P.L. 1942 C. 112 (N.J.S.A. 40:48-2.3 et. seq.). Notwithstanding any other provision of law to the contrary, nothing shall prevent the mayor and council from designating more than one public officer for different purposes as provided by law.

§10-9.3 Criteria for determination of building as unfit.

- a. Any building within the Borough may be determined and declared to be unfit for human habitation or occupancy or use if the public officer 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, including, but not limited to defects therein increasing the hazards of fire, accident other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; or failure to conform to other laws of the State of New Jersey or to ordinances of the Borough or county board of health regulating the safety and sanitation of the buildings.
- b. Any building or buildings, or parts thereof, which have come into a state of disrepair through neglect, lack of maintenance or use, fire, accident or other calamities, or through any other act rendering the building or buildings, or parts thereof, in a state of disrepair, to the extent that the welfare of the residents of the Borough, and the public officer may exercise the public officer's powers to repair, demolish or cause the repairing or demolition of the building or buildings, or parts thereof, pursuant to the provisions of this chapter.
- c. Any building or buildings, or parts thereof, which have been damaged to such an extent that nothing remains but the walls, or parts of the walls and other supports, shall, regardless of the safety and sturdiness of those remaining walls or parts thereof, be deemed inimical to the welfare of the residents of the Borough, and the public officer may exercise the public officer's powers to repair, demolish or cause the repairing or demolition of the building or buildings, or parts thereof, pursuant to the provisions of this chapter.
- d. Filing of petition; issuance of complaint; notice of hearing. Whenever a petition is filed with the public officer by a public authority or by at least five residents of the Borough charging that any building is unfit for human habitation or occupancy or use, or whenever it appears to the public officer, on the public officer's own motion, that any building is unfit for human habitation or occupancy or use, the public officer, in consultation with the Mayor, issue and cause to be served upon the owner of and 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 officer at a place therein fixes no less than seven (7) days nor more than thirty

(30) days after the serving of said complaint, that the owner and parties in interest shall have the right to file an answer to the complaint and appear in person or by counsel and give testimony at the place and time fixed in the complaint, and that the rules of evidence prevailing in the courts shall not be controlling in the hearing before the public officer.

§10-9.4 Service, posting and recording of complaint.

- a. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, that the serving of such complaint or order upon such persons may be made by publishing the same once each week for two successive weeks in a newspaper printed and published in the County of Salem and circulating in the Borough.
- b. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order.
- c. A copy of such complaint or order shall also be recorded or lodged for record with the county recording officer of Salem County.

§10-9.5 Hearing.

- a. The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person or by attorney and give testimony at the place and time fixed in said notice of hearing.
- b. The hearing shall occur before the Borough Council with a minimum of three (3) members present and the Mayor or his designee serving as Chair of the Hearing Committee.
- c. The rules of evidence prevailing in courts of law or equity shall not be controlling on hearings before the public officer.
- d. At the time and place stated in said notice, or at such time and place to which said hearing shall be adjourned, the public officer shall hold a hearing with the charges being read and the owner and parties in interest and witnesses shall be heard.
- e. Within fourteen (14) days of such hearing, the Mayor or his designee shall issue a written report setting forth the findings of fact, disposition of the charges and reasons thereof. The public officer shall serve a copy of the report upon the owner and other parties in interest.

§10-9.6 Abatement procedure.

- a. If, after such notice and hearing, the public officer determines that the buildings under consideration are unfit for human habitation or occupancy or use, in addition to the written report required under this chapter, the public officer shall issue and cause to be served upon the owners thereof and parties in interest an order:
 - i. requiring the repair, alteration or improvement of the said building to be made by the owner, within a reasonable time, which time shall be set forth in the order, or, at the

option of the owner, to vacate or have said building vacated and closed within the time set forth in the order; and

- ii. If the building is in such 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 time as specified in said order of removal.

§10-9.7 Actions by public officer upon failure of owner to comply.

- a. If the owner fails to comply with an order so issued by the public officer to repair, alter or improve, or at the option of the owner, to vacate and close the building, the public officer may cause such building to be repaired, altered or improved or to be vacated and closed. The public officer 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 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.

§10-9.8 Costs to become lien.

- 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 chapter determined in favor of the municipality, and the cost of such repairs, alterations and improvements, of vacating and closing, or removal or demolition, of 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 costs was incurred.
- b. A detailed statement of the aforesaid cost shall be filed with the municipal tax assessor or other custodian of the record of tax liens, and a copy of said statements shall be forthwith forwarded to the owner by registered mail. If the building is removed or demolished by the public officer, the public officer shall, if possible, sell or cause to be sold the materials of such building. There shall be credited against the cost of removal or demolition thereof, including the clearance and, if necessary, 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 or judgment of the court to the persons found to be entitled thereto by final order or judgment of such 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.

- c. If an actual and immediate danger to life is posed by the threatened collapse of any fire-damaged or other structurally unsafe building, the public officer 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.
- d. 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.

Section IV. Enforcement:

The provisions of this ordinance shall be enforced by the Construction Code Office.

Section V. Violations and Penalties:

Any person(s) who is found in violation of §10-2.9 Unfit Buildings, the violator shall be subject to such a fine in the maximum sum of two thousand dollars (\$2,000.00), ninety (90) days imprisonment and/or ninety (90) days of community service.

Section 2.

Repealer.

All prior Ordinances or parts of Ordinances inconsistent with this Ordinance be and the same are hereby repealed to the extent of such inconsistencies.

Section 3.

Severability.

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 4.

When effective.

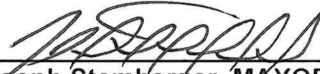
This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

ATTEST:

BOROUGH OF ELMER



Sarah D. Walker, CLERK

BY: 

Joseph Stemberger, MAYOR

Introduced: September 10, 2025

Adopted: October 8, 2025

ROLL CALL VOTE as follows:

	<u>MOTION</u>	<u>SECOND</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Schneider	_____	_____	✓	_____	_____	_____
Davis	✓	_____	✓	_____	_____	_____
Foster	_____	✓	✓	_____	_____	_____
Nolan	_____	_____	✓	_____	_____	_____
Schalick	_____	_____	✓	_____	_____	_____
Wheaton	_____	_____	✓	_____	_____	_____

NOTICE

The Ordinance published herein was introduced and passed upon first reading at a meeting of the Mayor and Council of the Borough of Elmer, in the County of Salem and State of New Jersey, held on September 10, 2025. It will be further considered for final passage, after public hearing hereon, at a meeting of said Mayor and Council to be held in the Borough Hall, 120 South Main Street, Elmer, New Jersey 08318, on October 8, 2025, at 7:30 P.M. During the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office at Borough Hall, 120 South Main Street, in the Borough, to the members of the general public who shall request the same.

Sarah D. Walker
Registered Municipal Clerk