

**ORDINANCE NO 1094-17**

**Amending Ordinances Codified at Section 14-2 Regarding the Buildings Unfit for Human Habitation in the City of Wildwood, Cape May County, State of New Jersey.**

*WHEREAS*, N.J.S.A. 40:48-2.3 provides for the procedure for declaring buildings unfit for human habitation and ordering their repair or demolition;

*WHEREAS*, the City's codified ordinance for declaring buildings unfit for human habitation and ordering their repair or demolition requires minor amendments to be consistent with N.J.S.A. 40:48-2.3; and,

*WHEREAS*, it is deemed in the City's interest to have the City Administrator serve as the "public official" who will hear petitions for the repair or demolition of buildings unfit for human habitation.

***NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS*** by the Board of Commissioners of the City of Wildwood, County of Cape May, State of New Jersey:

**Section 1: Section 14-2 of the City of Wildwood Codified Ordinances shall be amended as follows (underline denotes additions and strike-out denotes deletions):**

**14-2 Buildings Unfit for Human Habitation.**

**14-2.1 Definitions.**

As used in this section:

a. "Building" shall mean any structure or part of a structure, whether used for human habitation or not, including any outhouses or appurtenances belonging to it or usually used in connection with it.

b. "Building unfit for human habitation" shall mean any building in which conditions exist that are dangerous or injurious to the health or safety of the occupants of the building, the occupants of neighboring buildings or other residents of the city. These conditions may include, but shall not be limited to, defects including the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation, disrepair, structural defects or uncleanness. The New Jersey State Housing Code adopted by section 14-1 shall be used as a guide in determining the fitness of a building for human habitation or occupancy or use.

c. "Party in interest" shall mean any person who has an interest of record in a building or who is in actual possession of it.

d. "Public authority" shall mean any officer who is in charge of any department of the government of the City of Wildwood relating to health, fire, building regulations or other activities concerning buildings.

e. "Public officer" shall mean the City Administrator, who is hereby authorized to exercise the powers prescribed by this section, or such other official as may be designated by the Resolution of the Board of Commissioners.

**14-2.2 Petition and Complaint.**

Whenever a petition is filed with the ~~director of public affairs and public safety~~ public officer by a public authority or by at least five residents of the city charging that any building is unfit for human habitation, or wherever it appears to the director as a result of his own investigation that any building is unfit for human habitation, occupancy or use, he shall, if a preliminary investigation discloses a basis for the charges, issue and serve upon the parties in interest in the property affected a complaint stating the charges and containing a notice that a hearing shall be held by him at a time and place indicated in the notice, which shall not be less than ~~ten~~ seven days nor more than 30 days after service of the complaint. A notice shall also advise the person upon whom it is served ~~of his rights under this section~~ 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 the courts shall not be controlling in hearings before the public officer.

**14-2.3 Conduct of Hearing and Standards.**

The hearing shall be conducted in accordance with the procedure established by section 2-16 of this revision. The rules of evidence prevailing in the courts shall not be controlling at any hearing held under the provisions of this section. The public officer may determine that a building is unfit for human habitation or 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 or such municipality; such conditions shall be deemed to include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidations; disrepair,

structural defects; uncleanness; or failure to comply with the requirements of the building code or the certificate of occupancy.

#### **14-2.4 Order.**

If, after notice and a hearing, the ~~director of public affairs and public safety~~ public officer determines that the building in question is unfit for human habitation, occupancy or use, he shall serve upon the parties in interest personally or by registered mail in the premises a written order reciting his findings of fact and requiring the owner of the building to repair, alter or improve it within a reasonable time which shall be set forth in the order or, at the option of the owner, vacate the building and have it vacated and closed within the time set forth in the order.

#### **14-2.5 Removal or Demolition of Building by Owner.**

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 the building within the time specified in the order, the ~~director of public affairs and public safety~~ owner shall be required ~~may order the owner~~ to remove or demolish the building within a reasonable time as specified in the order to remove or demolish.

#### **14-2.6 Closing of Building.**

If the owner fails to comply with an order to repair, alter or improve, or to vacate and close a building, the ~~director of public affairs and public safety~~ public officer may cause the building to be repaired, altered or improved, or to vacate and close it. Where a building is closed by the ~~director~~ public officer, a notice shall be posted on the main entrance of the building containing the following words: "This building is unfit for human habitation, occupancy or use. Use or occupation of this building is prohibited and unlawful."

#### **14-2.7 Removal or Demolition of Building by ~~Director~~ Public Officer.**

If the owner fails to comply with an order to remove or demolish a building, the ~~director of public affairs and public safety~~ public officer may cause the building to be removed or demolished, or make a contract for its removal or demolition, after advertising and receiving bids in the same manner as for any other municipal contract.

#### **14-2.8 Recovery of Costs.**

The costs of the filing of legal papers, expert witnesses fees, search fees and advertising charges incurred in the course of any proceeding under this section determined in favor of the municipality, and the cost of any repairs, alterations or improvements, or vacating and closing, or re-moving or demolishing any building, 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 for the benefit of which the cost was incurred. If a building is removed or demolished by the ~~director of public affairs and public safety~~ public officer, he shall sell the materials comprising the building. The proceeds of any sale of these materials, or any sums derived from any contract for the removal or demolition of the building, shall be credited against the costs incurred by the city in connection with the building's removal or demolition. If there are no credits or the total of the costs exceeds the total of the credits, the detailed statement of costs and the amount due shall be filed with the municipal tax assessor or other custodian of the records of tax liens and a copy shall be sent to the owner by registered mail. If the total of the credits exceeds the costs, the balance remaining shall be deposited in the Superior Court by the ~~director of public affairs and public safety~~ public officer, shall be secured in a manner that may be directed by the court and shall be disbursed according to the order or judgment of the court to the persons found to be entitled to it.

#### **14-2.9 Powers of ~~Director of Public Affairs and Public Safety~~ Public Officer.**

In order to carry out the provisions of this section, the ~~director of public affairs and public safety~~ public officer shall have the power:

- a. To investigate or cause the investigation of, the condition of buildings in the city in order to determine which buildings are unfit for human habitation, occupancy or use.
- b. To administer oaths and affirmations, examine witnesses and receive evidence.
- c. To enter upon premises for the purpose of making an examination, provided that this is done in a manner that will cause the least possible inconvenience to the persons in possession.
- d. To appoint any officers, agents or employees which he deems necessary to carry out the provisions of this section, and to fix their duties.
- e. To delegate any of his functions and powers under the ordinance so such officers and agents as he may designate.
- ef. In general, to do any act necessary or appropriate to carry out the provisions of this section.

#### **14-2.10 Service of Complaints and Orders.**

~~Complaints or orders issued by the director of public affairs and public safety under this section shall be served upon the persons affected, either personally or by certified mail, return receipt requested, addressed to the person's last known place of residence. If the whereabouts of the person to be~~

served is unknown and cannot be ascertained by the use of reasonable diligence, service may be made by publishing the complaint or order once each week for two successive weeks in a newspaper circulating in the city. Where service is made by publication, a copy of the complaint or order shall be posted in a conspicuous place on the premises affected, and another copy shall be recorded or lodged for record with the Clerk of Cape May County.

Complaints or orders issued by a public officer pursuant to this section shall be served 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, then the serving of such complaint or order upon such persons may be made by publishing the same once in a newspaper printed and published in the City of Wildwood, or, in the absence of such newspaper, in one printed and published in Cape May County and circulating in the City of Wildwood. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint. A copy of such complaint or order shall be duly recorded or lodged for record with the county recording officer of Cape May County.

**14-2.11 Emergencies.**

~~Whenever the director of public affairs and public safety public officer determines that an emergency exists which requires immediate action to protect the public health, safety or welfare, he may, without notice or a hearing, issue an order reciting the existence of the emergency and requiring that action be taken which he deems necessary to meet the emergency. Notwithstanding the other provisions of this section, an emergency order shall be effective immediately. Any person to whom an emergency order is directed shall comply with it immediately, but, upon petition to the director of public affairs and public safety public officer, shall be afforded a hearing as soon as possible. If an actual an immediate danger to life is posed by the threatened collapse of any fire damaged or 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.~~

**Section 2.** If any portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

**Section 3.** All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

**Section 4.** This Ordinance shall take effect immediately upon final passage and publication as provided by law.

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Peter Byron, Commissioner

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Anthony Leonetti, Commissioner

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Ernest Troiano, Jr., Mayor

Attest: \_\_\_\_\_  
Christopher H. Wood, City Clerk  
or  
Karen M. Gallagher, Deputy City Clerk

The above ordinance was introduced and passed first reading on October 25, 2017.  
Second Reading/Public Hearing on the above ordinance was held on November 8, 2017.  
The above ordinance was adopted on November 8, 2017.

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CHRISTOPHER H. WOOD, CITY CLERK

