

Ord. #18-2012

**AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP
OF MOUNT OLIVE, COUNTY OF MORRIS AND STATE OF NEW
JERSEY, TO AMEND AND SUPPLEMENT THE “PROPERTY
MAINTENANCE CODE” OF THE TOWNSHIP OF MOUNT OLIVE**

BE IT ORDAINED by the Mayor and Township Council of the Township of Mount Olive, in the County of Morris and State of New Jersey, as follows:

Section 1.

Chapter 185, Property Maintenance, Article II, General Provisions, §185-28. Definitions and Word Usage, is hereby amended and supplemented in the following particulars only, which shall read as follows:

“ENFORCEMENT OFFICER” shall mean the official designated herein or otherwise charged with the responsibilities of administering the code or his authorized representatives, including the Township Administrator, Zoning Officer, Building Inspector, Construction Officials, Health Officer and/or Property Maintenance Officer and their subordinates or designees.

“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.

Section 2.

Chapter 185, Property Maintenance, Article II, General Provisions, §§185-32 through 185-35, are hereby amended and supplemented to read in their entirety as follows:

“§185-32. Unfit Structures.

- A. Enforcement authority. It shall be the duty and responsibility of the Enforcement Officer to enforce the provisions of the Property Maintenance Code with respect to Unfit Structures. 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 building is unfit for human habitation or occupancy or use, shall be deemed inimical to the residents of the Township and subject to these provisions. The Enforcement Officer shall have the power (a) to investigate building conditions in the Township to determine which buildings are unfit for human habitation or occupancy or use; (b) to enter upon premises for the purpose of making examinations provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; (c) to appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the Property

Maintenance Code; (d) to delegate any of his functions and powers to such officers and agents as he may designate; and (e) to administer oaths, affirmations, examine witnesses and receive evidence in the course of conducting a hearing. The Enforcement Officer and his designees shall be supplied with official identification and, upon request, shall exhibit such identification when entering any structure or other part of premises subject to the Property Maintenance Code. Enforcement officers shall conduct themselves so as to avoid intentional embarrassment or inconvenience of the occupants and shall explain the purpose of their visit to any occupants of the structure.

- B. Initiation of Investigation. The enforcement officer(s), upon his own initiative or upon petition of a public authority of at least five (5) residents of the Township charging that a building is unfit for human habitation or occupancy or use, may commence a preliminary investigation of the existence of such conditions. The enforcement officer may determine that a building is unfit for human habitation or occupancy or use if he finds (i) 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; (ii) that defects in the structure may increase the hazards of fire, accident, or other calamities; (iii) a lack of adequate ventilation, light, or sanitary facilities; (iv) dilapidation, disrepair, structural defects, unsanitary conditions, vermin infestation, rodent infestation, or uncleanness; (v) that all or part of any structure (including, among others, a fence, billboard or sign) or the equipment for the operation thereof (including, among others, the heating plant, plumbing, electric wiring, moving stairways, elevators and fire-extinguishing apparatus) is in an unsafe condition, or dangerous to life, limb or property, or (vi) a failure to comply with the requirements of the building code or the certificate of occupancy.
- C. Issuance of Complaint. If a preliminary investigation discloses that a building or structure is unfit for human habitation, occupancy or use, the Enforcement Officer shall issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges as determined by the preliminary investigation. Such complaint shall also state that a hearing will be held before the Enforcement Officer (or his designated agent) at a named location on a date and at a time specified, but no less than 7 days or more than 30 days after the complaint has been served. The complaint shall further advise the owner and parties in interest that either or both of them have the right to file an answer to the complaint and to appear in person and give testimony at the hearing, and that the rules of evidence prevailing in the courts shall not be controlling in hearings before the Enforcement Officer.

§185-33. Orders; Enforcement.

- A. Content of Order. If the Enforcement Officer determines upon conclusion of the hearing that the building under consideration is unfit for human habitation or occupancy or use he shall make a written statement of his findings of fact in support of such determination. He shall thereupon issue and cause to be served upon the owner and parties in interest an order:
- (1) requiring the repair, alteration or improvement of the building by the owner by a date set forth in the order or, at the option of the owner, the vacation and closure of the building within the time set forth in the order; and
 - (2) requiring the owner to remove or demolish the building within the time period specified in the order if the building has been found to be 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 said building within the time specified in the order.
- B. Appeal from Terms of Order. Any person aggrieved by an order issued by the Enforcement Officer under these provisions may, within 30 days after the posting and service of such order, bring an action for injunctive relief to restrain the Enforcement Officer from carrying out the provisions of the order and for any other appropriate relief. The court may proceed in the action in a summary manner or otherwise. The remedy provided for herein shall be exclusive, and no person affected by an order of the Enforcement Officer shall be entitled to recover any damages for action taken pursuant to the order, or because of noncompliance by any person with any order of the Enforcement Officer.
- C. Enforcement of Order to Repair. 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 enforcement officer shall cause such building to be repaired, altered or improved, or to be vacated and closed. In such case, the enforcement officer shall cause a placard to be posted on the main entrance of the building 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."
- D. Enforcement of Order to Remove or Demolish. If the owner fails to comply with an order to remove or demolish the building, the enforcement officer shall cause such building to be removed or demolished or may contract for the removal or demolition thereof after advertisement for, and receipt of, bids for such work.

- E. Removal of Posted Placard. No person shall deface or remove the placard from any structure which has been declared as dangerous or unfit for human habitation, occupancy or use, except upon written authority from the Enforcement Officer.
- F. Vacating Unfit Structure. Any structure which has been declared and placarded as dangerous or unfit for human habitation, occupancy or use shall be vacated as required by the Enforcement Officer, and it shall be unlawful for any person to occupy any structure which has been declared or placarded as unfit for human habitation, occupancy or use after the date set forth in the placard.
- G. Occupancy of structure. No structure which has been declared or placarded as unfit for human habitation, occupancy or use shall again be occupied until written approval is secured from the Enforcement Officer. The Enforcement Officer shall remove such placard only when the defect or defects upon which the declaration and placarding action were based have been eliminated.
- H. Report of notice to vacate. The Enforcement Officer shall furnish a copy of each order to vacate a structure to the Health Officer and the Chief of the Fire Prevention Bureau and any other designated official of the municipality concerned therewith.
- I. Abatement of Nuisance. Notwithstanding the powers of the Enforcement Officer hereunder, the Mayor and Council of the Township may by resolution abate a nuisance, correct a defect, or put the premises in proper condition so as to comply with the requirements of this Property Maintenance Code or State law applicable to the premises, at the cost of the owner or parties in interest. Municipal funds may be expended for this purpose and charged against the premises, and the amount thereof as determined by the Mayor and Council shall be a lien against the premises and collectible as otherwise provided herein.
- J. Summary Proceedings. Notwithstanding any other provision of this Property Maintenance Code, if an actual and immediate danger to life is posed by the threatened collapse of any fire damaged or other structurally unsafe building, the Enforcement 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. Nothing in these provisions shall be construed to impair or limit in any way the power of the Township to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, nor is anything in these provisions intended to limit the authority of the enforcing agency or construction official under the "State Uniform

Construction Code Act,” P.L.1975, c. 217 ([C. 52:27D-119 et seq.](#)) or any rules or regulations adopted thereunder.

§185-34. Service of Complaints and Orders.

Complaints or orders issued by the Enforcement Officer under this Section shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and cannot be ascertained in the exercise of reasonable diligence, the Enforcement Officer shall make an affidavit to that effect. In that case, service of the complaint or order upon such persons may be made by publication once in a newspaper printed and published in the Township, or, in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the buildings are located. A copy of each complaint or order shall also 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 with the county recording officer of Morris County.

§185-35. Costs a Municipal Lien.

- A. Amount of Lien. Costs incurred by the Township in enforcement of this Property Maintenance Code and any order of the Enforcement Officer shall be a municipal lien against the real property upon which such cost was incurred owner, including:
- (1) the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition of any building or structure, if any, and
 - (2) costs for filing legal papers, expert witness fees, search fees and advertising charges, incurred in the course of any proceeding taken hereunder and determined in favor of the municipality or
 - (3) or the amount of the balance remaining after deduction of the sum, if any, realized from the sale of materials derived from demolition of a building or from any contract for removal or demolition thereof.
- B. Credits Against Costs Incurred. If a building is removed or demolished by the Enforcement 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 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.
- C. Costs to be Certified to the Tax Collector. If there are no credits against costs incurred, or if the sum total of such costs exceeds the total of such

credits, a detailed statement of the aforesaid costs and the amount due from the property owner shall be filed with the Tax Collector and a copy thereof shall be forwarded to the owner by registered mail. If the total of the credits exceed such costs, the balance remaining shall be deposited in the Superior Court by the Enforcement Officer, secured in such manner as may be directed by the court, and shall be disbursed solely according to final order or judgment of the court to the persons found to be entitled thereto. Any owner or party in interest may, within 30 days after the date the lien certificate is filed, 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 3.

If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.

Section 4.

All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.

Section 5.

This Ordinance shall take effect after publication and passage according to law.

ATTEST:

TOWNSHIP OF MOUNT OLIVE

Lisa Lashway, Clerk

Alex Roman, Council President