

INTRODUCED BY B. Fontana INTRODUCTION March 16, 2010
SECONDED BY L. Borgave HEARING April 13, 2010
ADOPTION April 13, 2010

**BOROUGH OF CLIFFSIDE PARK
COUNTY OF BERGEN, STATE OF NEW JERSEY**

ORDINANCE 2010-04

**ORDINANCE AMENDING ORDINANCE 11-3 UNFIT BUILDINGS
OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF CLIFFSIDE PARK
AUTHORIZING THE REPAIR, CLOSING OR
DEMOLITION OF UNSAFE STRUCTURES OR BUILDINGS**

WHEREAS, periodically property owners have abandoned or have permitted their property to become structurally or aesthetically compromised, which developments have or could affect the health, safety and welfare of the residents of the Borough, visitors and Municipal employees; and

WHEREAS, pursuant to N.J.S.A. 40:48-2.5, the Council is authorized to introduce an ordinance for the repair, closing or demolition of an unsafe building and/or structure which is unfit for human habitation or occupancy of use; and

NOW, THEREFORE, the Council of the Borough of Cliffside Park does hereby Ordain as follows.

11.3-1 No change.

- a) No change;
- b) No change;
- c) No change.
- d) Public authority/ Official shall be either:
 - 1) Construction Code Official;
 - 2) Fire Chief;
 - 3) Chief of Police;
 - 4) Health Officer;
 - 5) Fire Sub-code Official;
 - 6) Zoning Officer.

11.3-2 Delete.

11.3-2 Designation of Public Official.

That the Office of the Borough Construction Code Official shall be deemed the lead agency to exercise the powers hereinafter prescribed by this Ordinance.

11.3-3 Deleted

11.3-3 Municipal Process

Whenever one of the aforesated Municipal Officials submits a written notice to the Borough Administrator or his designee indicating that in their visual and objective opinion a building or structure is unfit for human habitation, occupancy or use, the procedural and substantive due process procedures delineated herein will control;

11.3-4 Deleted

11.3-4 Residential Petition:

The Council does hereby permit upon the written petition of not less than 5 residents residing within 200 feet of any alleged building that, their petition be accepted and submitted to the Construction Code Official who shall be required to conduct a site inspection. If the Municipal Official is of the opinion that the property is unfit for human habitation, occupancy or use, the Municipal Official, through the office of the Borough Attorney, shall cause to be served upon the owner and parties in interest of such building a complaint;

11.3-5 Deleted

11.3-5 Procedural and substantive due process/requirements of the complaint.

11.3-5.1 Specific factual charges stating that the building is unfit for human habitation, unsafe for occupancy, or use;

11.3-5.2 The owner and parties in interest shall be given notice of the hearing date which shall be not less than seven (7) days, but not more than thirty (30) days after the serving of said complaint;

11.3-5.3 The parties have the right to file an answer to the complaint and to appear in person or with counsel and give testimony to the Borough's designated hearing officer at the place and time fixed in the complaint;

11.3-5.4 If the Municipal Hearing Officer determines that pursuant to the evidence presented, the building is deemed unsafe, unfit for human habitation, or occupancy or use, the Municipal Hearing Officer shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the Borough, owner and parties in interest their "Recommendation";

11.3-5.5 The Recommendation shall be accepted, rejected or modified by Resolution of the Council;

11.3-5 Service of Complaint. Any complaint, Recommendation or Resolution issued pursuant to this section shall be served upon the owner and parties in interest either personally or by registered mail. Upon posting of the registered mail, service shall be deemed complete, but if the whereabouts of any such owner or party in interest is unknown and the same cannot be ascertained by the Borough in the exercise of reasonable diligence, and the public officer shall render an affidavit or certification to that effect, service of the complaint or Resolution may be made by publishing same once each week for two successive weeks in a newspaper printed and published in the Borough, or, in the absence of such newspaper in one printed and published in Bergen County and circulating in the Borough. A copy of such complaint, Recommendation or Resolution shall be posted in a conspicuous place on the premises affected by the complaint, Recommendation or Resolution. A copy of the complaint and Resolution shall be recorded in the office of the Bergen County Clerk.

11.3-6 Deleted.

11.3-6 Final Determination

11.3-6.1 If the Resolution requires the repair, alterations and improvement of said building all repairs; all conditions shall be remedied in accordance with all State Building Codes within a reasonable period of time with the option of the owner to vacate or raise the building within the time set forth in the Resolution; or

11.3-6.2 If the building is in such condition as to make it dangerous to the health and safety of persons on or near the premises, the owner fails to repair, alter, improve the building within the time specified in the Resolution, then the owner shall be required to demolish said building within a reasonable period of time as specified in the Resolution;

11.3-6.3 If the owner fails to comply with the Resolution or, if the owner fails to vacate and raise the building, the Borough may cause such building to be repaired, altered, improved, or to be vacated, raised and demolished;

11.3-6.4 If any of the aforesaid where to occur, the Borough shall post on the main entrance of said building, a placard stating the following:

“This building is unfit for human habitation or occupancy or use; the use or occupation of this building is prohibited and unlawful”.

11.3-7 Delete

11.3-7 Costs to be a Municipal Lien

If the tenants are removed and/or the building is repaired, altered, raised or demolished, pursuant to the terms of N.J.S.A. 40:48-2.5 and this ordinance, the Borough shall be permitted to levy as a tax lien the property and recoup the following expenses:

- a. All professional fees including but not limited to engineering, architectural and/or legal;
- b. Title search and recording fees;
- c. Advertising charges incurred in the course of any proceeding taken under this Ordinance;
- d. Any other reasonable fees incurred by the Borough;
- e. Vacating and housing of any tenants.

11.3-7.1 If pursuant to this provision the Borough is permitted to recoup its expenses, the Municipal Official shall submit a certification as to the actual costs incurred by the Borough. The Council upon Resolution shall direct the Municipal Tax Collector to charge the cost incurred by the Municipality as a lien upon such lands in the form of property taxes to be assessed or levied upon such lands, same to bear interest at the same rate as taxes and collected and enforced by officers in the same manner as taxes.

11.3-8 Deleted

11.3-8 Inventory of Personalty

If the building is raised or demolished by the Borough, the Public Official shall be required to inventory and store for a period not to exceed 60 days, sell, or dispose of the materials in such building. The funds obtained through the sale of the materials in the building shall be credited against the cost of tenant removal, raising and/or demolition. 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 amounts due shall be filed with the Municipal Tax Collector with a copy thereof to be forwarded to the owner of record by registered and first class mail. If the total of the credits exceed such costs, the balance remaining shall be deposited in the Superior Court by the Municipality and disbursed only pursuant to an Order or Judgment of the Court to the persons found to be entitled thereof, or in the alternative any owner or party in interest may, within 30 days from the date of filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness for the amount or the accuracy of the costs set forth in the Municipal Lien Certificate.

11.3-9 Deleted

11.3-9 Order of Demolition

If an actual and/or imminent danger to life is posed by the threatened collapse by fire or natural disaster, the Municipal Officials may, after taking such measures as may be necessary to make such building temporarily safe, with concurrence of the Municipal Engineer, may seek a judgment in a summary proceeding for a demolition Order of the building. However this ordinance does not limit the emergency powers of the

Construction Code Official to immediately order the demolition of a building or structure damaged by fire or other natural disaster if in the Official's professional opinion, the building or structure is deemed unsafe as defined in the State's Uniform Construction Code or other applicable DCA building regulations.

11.3-10 Deleted

11.3-10 General Powers:

Nothing in N.J.S.A 40:48-2.5 and/or 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 the Borough's interpretation of N.J.S.A 40:48-2.5 or the implementation of this Ordinance intended to limit the authority of the enforcing agency or Construction Code Official under the "State Uniform Construction Code" or any rules or regulations adopted thereunder.

11.3-11 Deleted

11.3-11 Duties of the Public Official. The Public Official is hereby authorized to exercise such powers as may be necessary to carry out and effectuate this Ordinance including the following powers in addition to others herein granted:

- A) To investigate building conditions in the Borough in order to determine which buildings are unfit for human habitation or occupancy or use;
- B) To enter upon premises for the purposes of making examinations; provided that such entries shall be made in a reasonable manner;
- C) To appoint and fix the duties of such officer, agents and employees of the Borough as he deems necessary to carry out the purposes of this and other ordinances;
- D) To delegate any of his functions and powers under this section to such Municipal Officers and agents as he may designate.

11.3-12 Impairment of Powers. Nothing in this section shall be construed to abrogate or impair the powers of the Municipal Court or any department of the Borough to enforce any of the provisions the Borough's ordinances or to prevent the punishment of violations thereof. The powers conferred herein shall be in addition and supplemental to the powers conferred by any other law or ordinance.

Nothing in this section shall be construed to impair or limit in any way the power of the Borough to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, nor is anything in this section 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.

11.3-12 Renting Vacant Units in Substandard Building. Where a structure containing dwelling units shall be found to be substandard in accordance with this chapter, and at the time of such violations there are persons residing therein and/or vacant dwelling units, all tenants shall be relocated at the owner's expense and the vacant dwelling units in the structure shall be deemed inhabitable and may not be rented or leased until all violations have been abated.

11.3-13 NON-REPEALER. All other Sections of the revised Borough ordinance not specifically amended by the provisions of this Ordinance shall remain in full force and effect.

11.3-14 SEVERABILITY. If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid in whole or in part or as

applied to any particular circumstance or individual by a court of competent jurisdiction, such order of judgment shall not effect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this ordinance.

11.3-15 REPEALER. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies only.

11.3-16 EFFECTIVE DATE. This ordinance shall take effect immediately upon final passage and publication as required by law.

INTRODUCED March 16, 2010

ADOPTED April 13, 2010


Gerald A. Calabrese, Mayor

ATTEST:


Sercan Zoklu, Borough Clerk