

**TOWNSHIP OF HAMILTON
ORDINANCE NO.: #1841-2017**

**AN ORDINANCE AMENDING CHAPTER 130 OF THE HAMILTON TOWNSHIP CODE
GOVERNING BUILDINGS, UNFIT**

WHEREAS, the Township of Hamilton, desires to improve its ability to address the public's health, safety, and general welfare in relation to buildings that are unfit for human habitation;

WHEREAS, Chapter 130 of the Township Code, entitled "Buildings, Unfit", is presently ineffectual because it references Atlantic County enforcement officials and review agencies that no longer exist; and

WHEREAS, the Township believes its capacity to address problems relating to unfit buildings is best served by providing enforcement capacity to Township officials and the Hamilton Township Property Maintenance Appeal Board;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hamilton, County of Atlantic and State of New Jersey:

SECTION I. REPEAL AND REPLACEMENT OF CHAPTER 130

Chapter 130 of the Township Code of the Township of Hamilton is repealed in its entirety and replaced as follows:

CHAPTER 130: BUILDINGS, UNFIT

§ 130-1 Enforcing official.

The Township of Hamilton Construction Code Official, the property maintenance Code Official established in Chapter 238 of the Township Code and all Township of Hamilton Code Enforcement Officers are hereby Designated Officers who may exercise the powers prescribed by this chapter, and they shall serve in such capacity without any additional salary.

§ 130-2 Conditions determining dwellings to be unfit.

For the purpose of this chapter, a Designated Officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health or safety of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of the Township of Hamilton. Such conditions may 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; dilapidation; and disrepair, structural defects or uncleanliness.

§ 130-3 State Housing Code & International Property Maintenance Code adopted as standards.

Pursuant to the provisions of Chapter 21 of the Public Laws of 1946 (N.J.S.A. 40:49-5.1), the New Jersey State Housing Code (NJAC 5.28-1.1 *et.seq.*), as adopted by the Department of Community Affairs, and The International Property Maintenance Code, 2009 Edition as set forth in Chapter 238 of the Township Code, are hereby accepted, adopted and established as standards

to be used as a guide in determining the fitness of a building for human habitation, occupancy or use. A copy of the New Jersey State Housing Code and the International Property Maintenance Code, 2009 Edition are annexed to this chapter, and three copies of the same have been placed on file in the office of the Township Clerk and are available to all persons desiring to use and examine the same.

§ 130-4 Notice of violation; hearing.

Whenever a petition is filed with a Designated Officer by a public authority, as defined in N.J.S.A. 40:48-2.4, or by at least five residents of the municipality, charging that any dwelling is unfit for human habitation as herein defined, or whenever it appears to a Designated Officer (on his own motion) that any dwelling is unfit for human habitation, as herein defined, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Hamilton Township Property Maintenance Appeal Board at a place therein fixed not less than 10 days nor more than 30 days after the serving of said complaint; 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 time and place fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Hamilton Township Property Maintenance Appeal Board.

§ 130-5 Order to abate violation or vacate or demolish building; costs.

If after such notice and hearing Hamilton Township Property Maintenance Appeal Board determines that the dwelling under consideration is unfit for human habitation, as herein defined, it shall state, in writing, its 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:

A. That the repair, alteration or improvement of said building 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 to have said building vacated and closed within the time set forth in the order.

B. That, 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, the owner shall remove or demolish said building within a reasonable time as specified in said order of removal.

C. That, 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, a Designated Officer may cause such building to be repaired, altered or improved, or to be vacated and closed; that a Designated 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."

D. That, if the owner fails to comply with an order to remove or demolish the building, the Hamilton Township Property Maintenance Appeal Board 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.

E. That the amount of the cost of 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 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. If the building is removed or demolished by the Hamilton Township Property Maintenance Appeal Board, it shall sell the materials of such building. There shall be credited against the cost of 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. 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 Hamilton Township Property Maintenance Appeal Board, 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 a special 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 Township of Hamilton to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. Any owner or party in interest may, within 60 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.

§ 130-6 Manner of serving notice.

Complaints or orders issued by a Designated Officer 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 said Designated Officer, in the exercise of reasonable diligence, and said Designated 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 each week for two successive weeks in a newspaper printed and published in the Township of Hamilton. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order, and a copy of such complaint or order shall be duly recorded or lodged for record with the county recording officer of the county in which the dwelling is located.

§ 130-7 Powers of enforcing official.

The Designated Officers are hereby authorized and empowered 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, in addition to others herein granted:

- A.** To investigate the dwelling conditions in the Township of Hamilton in order to determine which dwellings therein are unfit for human habitation.
- B.** To administer oaths and affirmations, examine witnesses and receive evidence.
- C.** 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.

D. To appoint and fix the duties of such officers, agents and employees as he or they deem necessary to carry out the purposes of this chapter.

E. To delegate any of his or their functions and powers under this chapter to such officers and agents as he or they may delegate.

§ 130-8 Right of entry for repairs or alterations.

Every occupant of a dwelling or dwelling units will give the owner thereof or his agent or employee access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to affect compliance with the provisions of this chapter and with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter.

§ 130-9 Emergency measures.

Whenever a Designated Officer finds that an emergency exists which requires immediate action to protect the public health or safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency in requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Hamilton Township Property Maintenance Appeal Board shall be afforded a hearing as soon as possible. After such hearing, depending upon its findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with, the Hamilton Township Property Maintenance Appeal Board shall continue such order in effect or modify or revoke it.

§ 130-10 Compliance with State Housing Code; violations and penalties.

No person shall occupy as owner-occupant or rent to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not conform to the provisions of the New Jersey State Housing Code established hereby as a standard to be used in determining whether a dwelling is safe, sanitary and fit for human habitation. Any person, firm or corporation who shall violate this section shall, upon conviction, be punished by a fine not to exceed \$200 or by imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment; and each violation of any of the provisions of this section and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

§ 130-11 Construal of provisions.

Nothing in this chapter shall be construed to abrogate or impair the power of the Township of Hamilton or any officer or department to enforce any provision of its Charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred upon the township by any other law or ordinance.

SECTION II. SEVERABILITY AND REPEALER

A. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

B. Any Ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

SECTION III. EFFECTIVE DATE

This Ordinance shall take effect upon its final passage and publication, as provided by law.

**TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF HAMILTON,
COUNTY OF ATLANTIC and
STATE OF NEW JERSEY**

ATTEST:

Rita Martino, RMC, CMR
Deputy Township Clerk

, Mayor

COMMITTEE MEMBER	MOTION	YES	NO	ABSTAIN	ABSENT
GUISHARD					
KURTZ					
LINK					
SCHENKER					
SILVA					

FIRST READING AND INTRODUCTION: January 17, 2017

FINAL READING AND ADOPTION: