

Introduced: 11/17/2020
Public Hearing: 12/08/2020
Adoption: 12/08/2020

**TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
ORDINANCE NO. 06-2020**

**AN ORDINANCE OF THE TOWNSHIP OF TEWKSBURY, HUNTERDON
COUNTY, NEW JERSEY, CREATING CHAPTER 9.12 - PROPERTY
MAINTENANCE, OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF
TEWKSBURY**

WHEREAS, the Township Committee of the Township of Tewksbury (the “Township”) desires to protect the public health, safety and welfare of the Township and its residents by establishing minimum standards governing the maintenance, appearance, and condition of residential and nonresidential premises, and to avoid, prevent and eliminate certain potentially deleterious conditions which, if permitted to exist, could depreciate the value of adjacent or surrounding properties; and

WHEREAS, the Township Committee further desires to prevent the creation, continuation, extension or aggravation of such conditions; to prevent and eliminate physical conditions in or on property which constitute nuisances and are dangerous or potentially dangerous to the life, health and safety of persons or property on or near the premises where such conditions exist; and

WHEREAS, in order to address the aforementioned issues, the Township Committee finds and declares that it is necessary to fix certain responsibilities on owners, occupants, lessees and operators of property, and to establish procedures for inspection of premises; and to fix penalties.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Tewksbury, Hunterdon County, New Jersey, as follows:

SECTION 1. Title 9, Public Peace, Morals and Welfare, Chapter 9.12 – Property Maintenance, of the Code of Ordinances of the Township of Tewksbury is hereby created as follows:

9.12 – Property Maintenance

9.12.010 - Title and purpose.

- A. Title. This chapter shall be known as the Property Maintenance Code of the Township of Tewksbury.
- B. The purpose of this chapter is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance, and condition of residential and nonresidential premises; to avoid, prevent and eliminate certain potentially deleterious conditions which, if permitted to exist, could depreciate the value of adjacent or surrounding properties; to prevent the creation, continuation, extension or aggravation of such conditions; to prevent and eliminate physical conditions in or on property which constitute nuisances and are dangerous or potentially dangerous to the life, health and safety of persons or property on or near the premises where such conditions exist; to fix certain

responsibilities on owners, occupants, lessees and operators; to establish procedures for inspection of premises; and to fix penalties. This chapter is hereby declared to be remedial and essential for the public interest and shall be construed liberally to effectuate the purposes as stated herein.

9.12-020 – Definitions.

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

Building means any building or structure or part thereof, whether used for human habitation or otherwise, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Exterior of Premises shall mean those portions of the building or structure which are exposed to public view, and the open space of any premises outside of any building or structure erected thereon.

Nuisance shall mean:

a. Any public nuisance known at common law or in equity jurisprudence or as provided by the Statutes of New Jersey, or the regulations of any administrative body, or the laws of Hunterdon County, or the Township of Tewksbury;

b. Any attractive nuisance which may prove detrimental to the health or safety, located outside a building or structure, or upon an unoccupied lot or parcel of land. This includes, but is not limited to, appliances, furniture, motor vehicles, boats or trailers (or parts thereof) that have been junked, abandoned or that are in a state of disrepair; trash; and debris;

c. Any premises which are unsanitary, or which are littered with rubbish or garbage;

Occupant shall mean any person residing, living or sleeping in or on the premises or having actual use or possession or occupancy of a dwelling or premises, or part thereof, whether or not he or she is the owner, and regardless of the duration of time of such possession, use or occupancy.

Officer means the Zoning Officer or designee charged with the enforcement of this chapter.

Operator shall mean any person or entity, not the owner, who has charge, care, or control of a dwelling or premises, or part thereof, with or without the knowledge or consent of the owner.

Owner shall mean any person or entity having legal or equitable title in any form whatsoever to any premises or part thereof, including, but not limited to, an agent of the owner, fiduciary, trustee, receiver, guardian, lessee, mortgagee in possession, regardless of how possession was obtained.

Premises shall mean a lot, plot, parcel of land or right-of-way, including the buildings or structures thereon.

Public Authority means any housing authority or official who is in charge of any department or branch of the government of the Township, county or state relating to health, fire, building regulations, or to other activities concerning buildings in the Township.

9.12.030 – General provisions.

- A. Declaration of Public Necessity. It has been found and declared that there exists in the Township buildings and premises which are so old or dilapidated or have become so out of repair, or upon which are maintained nuisances as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and that the occupancy or use of such buildings or premises for any purpose is inimical to the health and safety of the people of the Township, and that a public necessity exists for the repair, closing or demolition of such buildings and the abatement of such nuisances.
- B. Applicability. Every residential and nonresidential lot, building, premises or part thereof, whether vacant or used for any purpose shall comply with the provisions of this chapter whether any building or structure was constructed, altered or repaired before passage of this chapter and irrespective of any permits or licenses which might have been issued. Vacant land, lots and premises shall comply with provisions of this chapter.
- C. Higher Standard to Prevail. Where the provisions of this chapter impose a higher standard than that set forth in any ordinance, law, statute, rule or regulation of any governmental body, then the standards set forth herein shall prevail. If this chapter imposes a lower standard, then the higher standard shall prevail.
- D. Enforcement by the Officer. For the enforcement of provisions of this chapter, the Officer, appointed pursuant to § 4-2F, shall exercise all powers of the public officer conferred upon him by N.J.S.A. 40:48-2.3, et seq.
- E. Compliance Not a Defense. Compliance with the provisions of this chapter shall not constitute a defense against any violation of any other ordinance, law, statute, rule or regulation of any governmental body.
- F. Responsibilities of Owners, Operators and Occupants. Owners, operators and

occupants shall have all the duties, obligations and responsibilities set forth in this chapter; and no owner, operator or occupant shall be relieved of any duty, responsibility or obligation provided herein, nor be entitled to assert as a defense, that another owner, operator or occupant is responsible under this chapter.

- G. Compliance Requirement. It shall be the duty, obligation and responsibility of the owner, operator or occupant of any building, structure or premises to comply with the standards set forth herein.

9.12.040 – Prohibited nuisances.

- A. Maintenance Standards. It shall be the duty of every owner, operator and occupant of any premises to keep the same free of nuisances which include, but shall not be limited to, the following:

1. Freezers, refrigerators, televisions, heaters, appliances, furniture, and similar items (or parts thereof) that have been junked, abandoned, or that are in a state of disrepair;
2. Vehicles, boats and trailers which have been junked, abandoned, or that are in a state of disrepair, whether registered or unregistered, licensed or unlicensed;
3. Debris, junk, litter, refuse or garbage;
4. Unsafe, noxious, unhealthy or hazardous substances, materials, or conditions.

- B. Garbage and Refuse Containers. All exterior property areas and premises shall be maintained free from any accumulation of rubbish, junk, debris or garbage.

- C. Storage of Bulky Household Waste. It shall be unlawful for any residential property owner to store or permit storage of any nuisance or bulky household waste, including household appliances, furniture and mattresses, in areas zoned or used for residential purposes except in a fully enclosed structure or during days designated for the collection of bulky items.

- D. Storage of Tires. It shall be unlawful for any residential property owner to store or permit storage of tires in areas zoned or used for residential purposes except in a fully enclosed structure or on days designated for the collection of tires.

9.12.050 – Enforcement, violations and penalties.

- A. Enforcement Officer. The provisions of this chapter shall be enforced by the Officer, or such other persons who may be designated by the Township Administrator, with the assistance of the Police Department and the County

Health Department.

- B. Notice of Violations; Issuance of Summons Upon Failure to Remedy. Whenever the Officer determines that there has been a violation of the provisions of this chapter, the Officer shall give notice of such violation to the person responsible for such violation. The notice shall be in writing and shall include a statement of the reasons for its issuance. Such notice shall be deemed to be properly served if a copy is sent by registered or certified mail to the last known address of the person as shown by the most recent tax lists of the Township; or a copy thereof handed to such person; or a copy thereof left at the usual residence or place of business of such person or entities. The notice shall also state that unless the violation is cured, abated, removed, prevented or desisted from within ten (10) days of the date of service, a summons shall be issued for such violation. The Officer may extend the period for compliance for a period in excess of ten (10) days as aforesaid, if, in his or her judgment, the violation cannot be rectified in ten (10) days.
- C. Emergency Conditions. Notwithstanding any provisions to the contrary, whenever the Enforcement Officer finds an emergency condition in violation of this chapter, which requires immediate action to protect the public health or safety, he or she may issue an order by service of notice as set forth in the Notice of Violation subsection above, reciting the emergency condition and requiring that such action be taken by the violator on a date set forth by the Enforcement Officer.
- D. Summary Abatement. Whenever any violation of this chapter is of such a nature as to constitute an immediate threat to life or property unless abated without delay, the Officer shall abate the violation immediately by prohibiting any use of the subject property; or by ordering the immediate vacation of the property; or by employing the necessary labor and materials to render the subject property safe; or any combination of the aforesaid remedies. Costs incurred for any emergency work shall be paid from the Township Treasury. The costs shall constitute a lien on the premises and legal counsel for the Township shall institute appropriate action to recover said costs.
- E. Transfer of Ownership. It shall be unlawful for the owner of any premises who has received a compliance order, notice of violation or summons to sell, transfer or lease the subject premises until the provisions of the compliance order or notice of violation have been met, or until a suitable escrow shall be posted with the Township.
- F. Penalties. Any person who violates any provision of this Chapter shall be liable, upon conviction, for the penalty as stated in Section 1.08.010 of the Tewksbury Township Municipal Code of Ordinances – General Penalty.

9.12.060 – Unfit buildings.

- A. **Petition and Preliminary Investigation** Whenever it appears that there exists in the Township any building which is unfit for human habitation, occupancy or use due to dilapidation, disrepair or structural defect increasing the hazards of fire, accidents or other calamities, lack of adequate ventilation, light or sanitary facilities, or due to other conditions rendering such building unsafe or unsanitary and dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents, the Officer shall, upon the filing of a petition by a public authority or by at least five residents of the Township charging that any building is unfit for human habitation, occupancy or use or if it shall appear to such Officer on his own motion that any building is unfit for human habitation, occupancy or use, make a preliminary investigation or cause such preliminary investigation to be made concerning the basis for such charges.
- B. **Conditions Rendering Buildings Unfit.** Buildings shall be considered unfit for human habitation, occupancy or use, within the meaning of this Chapter, when one or more of the following conditions are found to exist:
1. **Condition of structure:** the condition of the structure is such as to make it unsafe or unsanitary through the presence of serious safety hazards resulting from the need for major repairs to roof, walls, ceilings, floors, or stairs, or through the presence of serious health hazards resulting from continuous dampness or exposures brought about by neglect or dilapidation.
 2. **Water supply:** lack of potable running water within each dwelling or lack of hot water facilities available to each dwelling.
 3. **Sewerage system:** no connection between plumbing fixtures and adequate sewage disposal system.
 4. **Toilet facilities:** no flush toilet, fit for use, in each building.
 5. **Bath facilities:** no bathtub or shower, fit for use, in each dwelling.
 6. **Kitchen facilities:** lack of permanent, safe and reasonably efficient kitchen facilities within each dwelling unit, including sink with running water and provisions for a cooking stove.
 7. **Heating facilities:** heating facilities inadequate or unsafe.
 8. **Light and ventilation:** living room, bedroom or kitchen with no windows, or toilet or bathroom without adequate ventilation.
- C. The generality of the conditions rendering a building unfit for human habitation, occupancy or use specified in this Chapter shall not be deemed in anywise limited by the foregoing specifications of condition.

9.12.070 – Complaint; Notice of hearing; Procedure.

- A. **Complaint.** If a preliminary investigation shall disclose to the Officer a basis for the charges filed, he shall 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. The complaint shall also contain a notice that a hearing will be held before him or his designee at a place therein fixed not less than 10 days nor more than 30 days after the serving of the complaint.
- B. **Manner of Serving Complaints, Notices and Orders.** Complaints, notices and orders issued by the Officer pursuant to this chapter shall be served upon persons either personally or by registered mail. If the whereabouts of such persons is unknown and the same cannot be ascertained by the Officer in the exercise of reasonable diligence, and the Officer shall make an affidavit to that effect, then the serving of such complaint, notice or order upon such person may be made by publishing the same once each week for two successive weeks in the official newspaper of the Township. A copy of such complaint, notice or order shall be posted in a conspicuous place on the premises affected by the complaint, notice or order. A copy of such complaint, notice or order shall be duly recorded or lodged for record with the County Clerk of Hunterdon County.
- C. **Right to Answer and Give Testimony.** The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, by counsel or otherwise and give testimony at the time and place fixed in the complaint.
- D. **Rules of Evidence at Hearing.** The rules of evidence prevailing in the courts shall not be controlling in hearings before the Officer.
- E. **Determination that Building is Unfit.** The Officer may determine that a building is unfit for human habitation, 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 of the Township; such conditions may include, without limiting the generality of the foregoing, defects increasing the hazards of fire, accidents or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair, structure defects; uncleanliness; and the conditions set forth in this Chapter.
- F. **Order to Vacate, Repair or Demolish.** When, after such notice and hearing, the Officer determines that the building under consideration is unfit for human habitation, occupancy or use, he shall state, in writing, his findings of fact in support of such determination and shall issue and cause to be served, upon the owner thereof and the parties in interest, an order, as follows:
 - 1. Requiring the repair, alteration, or improvement of the building to be made by

the owner within a reasonable time, which shall in no event exceed 90 days from the order, which time shall be set forth in the order, or, at the option of the owner, to vacate or have the building vacated and closed within the time set forth in the order.

2. 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, then the owner shall be required to remove or demolish the building within a reasonable time, to be specified in the order. Notwithstanding the provisions of this Chapter, the Officer shall not require the removal or demolition of any building that is listed or is eligible to be listed on the State or National Register of Historic Places, or that is identified by the Township Historic Preservation Commission as a building of historic value.

9.12.080 – Failure to comply with orders.

- A. Placarding. 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 Officer may cause such building to be repaired, altered or improved, or to be vacated and closed. The Officer shall 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. Repair or Removal by Township. If the owner fails to comply with an order to repair, remove or demolish the building, the Officer may cause such building to be repaired, removed or demolished or may contract for the repair, removal or demolition thereof after advertisement, and after receipt of, bids therefor. The Township shall not repair a building under this Chapter unless it is listed or is eligible to be listed on the State or National Register of Historic Places, or it is identified by the Township Historic Preservation Commission as a building of historic value.

9.12.090 – Lien for costs; Sale of materials; Disposition of proceeds.

- A. 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 Township, and the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, when done by the Officer, shall be a municipal lien against the real property upon which said cost was incurred.
- B. If the building is removed or demolished by the Officer, he shall sell or cause to be sold the materials of such building and shall credit the proceeds of such against the cost of the removal or demolition, and any balance remaining shall be

deposited in the Superior Court of New Jersey, Chancery Division, by the Officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court; provided, however, that nothing in this chapter 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.

9.12.100 – Additional powers of the Officer.

In addition to the powers herein granted to the Officer, he shall also have the following powers:

- A. To investigate the building conditions in the Township in order to determine which buildings therein are unfit for human habitation, occupancy or use.
- B. To administer oaths, 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.

9.12.110 – Appeal from the Officer

Any person aggrieved by an order issued by the Director may bring a court action pursuant to N.J.S.A. 40:48-2.8.

9.12.120 – Fire damaged and dangerous buildings.

Every building which shall have been damaged by fire or other cause so as to be dangerous by reason of the bad condition of walls, floors, construction or otherwise shall be held to be unsafe, and the Officer, besides proceeding as hereinabove provided, shall also fix a notice of the dangerous character of the structure to a conspicuous place on the exterior of the building.

9.12.130 – Nonliability for damages.

The remedies herein provided shall be exclusive remedies, and no person affected by an order of the Officer shall be entitled to recover any damages for action taken pursuant to any order of the Officer or because of noncompliance by such person with any order of the Officer.

9.12.140 – Interpretation of provisions.

Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department to enforce any provisions of any charter or its

ordinances or regulations, nor to prohibit or punish violations thereof; and the powers conferred by this Chapter shall be in addition and supplemental to the powers conferred by any other laws or ordinance.

9.12.150 – Penalties.

Any person who violates any provision of this Chapter shall be liable, upon conviction, for the penalty as stated in Section 1.08.010 of the Tewksbury Township Municipal Code of Ordinances – General Penalty.

SECTION 2. All actions of the Township taken prior to the date of adoption hereof contemplated by this Ordinance are hereby ratified and approved.

SECTION 3. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any remaining part thereof.

SECTION 4. All Ordinances or parts of Ordinances of the Township of Tewksbury heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5. This Ordinance shall take effect immediately upon its final passage, approval and publication as provided by law.

I HEREBY CERTIFY the above to be a true copy of an Ordinance introduced by the Township Committee of the Township of Tewksbury at a duly convened meeting held on November 17, 2020 and adopted on December 8, 2020.

Jennifer Ader
Acting Township Clerk