

ORDINANCE NO.2065

AN ORDINANCE ESTABLISHING PROCEDURE FOR TAKING ACTION REGARDING UNSAFE PROPERTIES WITHIN THE BOROUGH.

WHEREAS, State statute, N.J.S.A. 40:48-2.5, provides that a municipality is authorized to adopt an ordinance relating to buildings within the municipality which are unfit for human habitation or occupancy or use; and

WHEREAS, such ordinance is necessary for the Borough to address any issue with buildings where in the Construction Official has determined that a building is unfit for human habitation or occupancy or use; and

WHEREAS, the Governing Body of the Borough of South Plainfield has determined that such an ordinance is necessary and appropriate;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey that upon the adoption of a resolution by the Governing Body finding that building conditions are such that a building is so old, dilapidated, or has become so out of repair to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, or occupancy, or use, is inimical to the welfare, and dangerous and injurious to the health and safety of people, and that a public necessity exists for the repair, closing or demolition of such building or buildings, or part thereof, the Construction Official of the Borough is designated or appointed to exercise the powers proscribed hereinafter.

1. Whenever a petition is filed with the Construction Official by a public authority or by at least five residents of the municipality charging that any building is unfit for human habitation or occupancy or use, or whenever it appears to the Construction Official (on his own motion) that any building is unfit for human habitation or occupancy or use, the Construction Official 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 building a complaint stating the charges in that respect, and containing a notice that a hearing will be held before the Construction Official (or his designated agent) at a place therein fixed not less than 7 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 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 Construction Official.

2. That if, after such notice and hearing, the Construction Official determines that the building under consideration is unfit for human habitation or 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 parties in interest an order:

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

b. 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, then the owner shall be required to remove or demolish said building with a reasonable time as specified in the said order of removal.

3. 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, the Construction Official may cause such building to be repaired, altered or improved, or to be vacated and closed; and the Construction Official 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."

4. That, if the owner fails to comply with an order to remove or demolish the building, the Construction Official 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.

5. That the amount of:

a. The cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceeding taken under this act determined in favor of the municipality, and

b. 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 Construction Official, 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. If there are no such credits or if the sum total of such costs exceed the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Borough 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 exceed such costs, the balance remaining shall be deposited in the Superior Court by the Construction Official, 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 final order or judgment of such court. Any owner or party in interest may, within 30 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.

If an actual and immediate danger to life is posed by the threatened collapse of any fire-damaged or other structurally unsafe building, the Construction Official 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.

This Ordinance shall take effect upon final passage and publication in accordance with New Jersey law.