

BUILDINGS, UNSAFE

Chapter 116

BUILDINGS, UNSAFE

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[HISTORY: Adopted by the Mayor and Council of the Borough of Wood-Ridge 8-15-1994 as Ord. No. 94-21. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass, weeds and other debris — See Ch. 110.

Uniform construction codes — See Ch. 126.

Fire prevention — See Ch. 146.

Property maintenance — See Ch. 198.

Sanitary conditions of buildings — See Ch. 266, § 266-23.

§ 116-1. Definitions.

The following terms, whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter, unless a different meaning clearly appears from the context:

BUILDING — 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.

GOVERNING BODY — The Council.

OWNER — The holder or holders of the title in fee simple.

PARTIES IN INTEREST — All individuals, associations and corporations who have an interest of record in a building and any who are in actual possession thereof.

PUBLIC AUTHORITY — Any Housing Authority or any officer who is in charge of any department or branch of the government of the municipality, county or state relating to health, fire, building regulations or to other activities concerning buildings in the municipality.

PUBLIC OFFICER — The officer, board or body who is or are authorized by ordinance adopted hereunder to exercise the powers prescribed by such ordinances and by this chapter.

§ 116-2. Appointment of public official; compensation.

- A. A public officer shall be designated or appointed annually by the governing body to exercise the powers prescribed by this chapter.
- B. The compensation paid to such public officer shall be as fixed by ordinance by the governing body.

§ 116-3. Issuance of complaint; notice of hearing.

Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the municipality charging that any building is unfit for human habitation or occupancy or use or whenever it appears to the public officer (on his own motion) that any building is unfit for human habitation or occupancy or use, the public officer 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 public officer (or his designated agent) at a place therein fixed not less than seven (7) days nor more than thirty (30) days after the serving of said complaint.

§ 116-4. Hearing before public officer.

- A. 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.
- B. The rules of evidence prevailing in the courts shall not be controlling in hearings before the public officer.

§ 116-5. Order to repair or vacate; failure to comply.

- A. If, after such notice and hearing, the public officer 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 requiring the repair, alteration or improvement of 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.

- 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 within a reasonable time as specified in said order of removal.
- C. 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 public officer may cause such building to be repaired, altered or improved or to be vacated and closed.

§ 116-6. Posting of notice.

The public 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."

§ 116-7. Bids for removal.

If the owner fails to comply with an order to remove or demolish the building, the public officer 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.

§ 116-8. Determination of costs; lien on property.

- A. The cost of the filing of legal papers, expert witness fees, search fees and advertising charges, incurred in the course of any proceeding taken under this chapter shall be determined in favor of the municipality.
- B. Such 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.

§ 116-9. Sale of building materials; disbursement of proceeds.

If the building is removed or demolished by the public officer, he shall sell the materials of such building, and 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 exceeds the total of such credits, a detailed statement of the aforesaid cost 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 forthwith 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 public officer, 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 thirty (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.

§ 116-10. Buildings posing immediate danger to life.

If an actual and immediate danger to life is posed by the threatened collapse of any fire-damaged or other structurally unsafe building, the public officer may, after taking such measures as may be necessary to make such buildings temporarily safe, seek a judgment in summary proceedings for the demolition thereof.

§ 116-11. Construal of provisions.

Nothing in this chapter 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 this chapter intended to limit the authority of the enforcing agency or Construction Official under the State Uniform Construction Code Act, P.L. 1975, c. 217 (N.J.S.A. 52:27D-119 et seq.) or any rules or regulations adopted thereunder.

§ 116-12. Conditions which determine a building unfit.

- A. The public officer may determine that a building is unfit for human habitation or 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 borough.
- B. 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; disrepair; structural defects; and uncleanliness.

§ 116-13. Requirements for service of complaints and orders.

Complaints or orders issued by a public officer pursuant hereto 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 the public officer in the exercise of reasonable diligence, and the public 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 in a newspaper printed and published in the borough or, in the absence of such newspaper, in one printed and published in the county and circulating in the borough. A copy of such complaint or order shall 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 for record with the Bergen County recording officer.

§ 116-14. Actions for injunctive relief.

Any person aggrieved by an order issued by the public officer under this chapter may, within thirty (30) days after the posting and service of such order, bring an action for injunctive relief to restrain the public 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 herein provided shall be exclusive, and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant thereto or because of noncompliance by any person with any order of the public officer.

§ 116-15. Powers of public officer.

The public officer may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

- A. To investigate the building conditions in the municipality in order to determine which buildings therein are unfit for human habitation or occupancy or use.
- 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.

§ 116-16. Effect of provisions on other laws and regulations.

Nothing in this chapter shall be construed to abrogate or impair the powers of any department of any borough to enforce any provisions 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 by any other law.