

Explanation: This Ordinance amends Chapter III by the addition of Section 3-28 entitled "Unfit Buildings" to determine conditions rendering buildings unfit for human habitation occupancy or use.

**TOWNSHIP OF WARREN
ORDINANCE NO. 14-07**

AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER III ENTITLED "GENERAL POLICE REGULATIONS" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WARREN AS HERETOFORE SUPPLEMENTED AND AMENDED BY ADDING NEW SECTION 3-28 ENTITLED "UNFIT BUILDINGS".

BE IT ORDAINED by the Township Committee of the Township of Warren, in the County of Somerset and State of New Jersey, as follows:

SECTION I. Chapter III entitled "General Police Regulations" of *The Revised General Ordinances of the Township of Warren* is hereby supplemented and amended by the addition of new Section 3-28 entitled "Unfit Buildings" as follows:

3-28 Unfit Buildings

3.28.1 Definitions

As used in this Section, the following terms shall have the meanings indicated pursuant to N.J.S.A. 40:48-2.4:

BUILDING shall mean 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 shall mean the Township Committee of the Township of Warren.

OWNER shall mean the holder or holders of the title in fee simple.

PARTIES IN INTEREST shall mean all individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.

PUBLIC AUTHORITY shall mean 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 shall mean the officer, officers, board or body who is or are authorized by this Section of *The Revised General Ordinances of the Township of Warren* to exercise the powers prescribed by N.J.S.A. 40:48-2.3 et seq. Notwithstanding any other provision of law to the contrary, nothing shall prevent the Township from designating more than one Public Officer for different purposes as

provided by law. The following Public Officers shall be appointed by action of the governing body:

A) A Public Enforcement Officer, who shall perform the duties of the Public Officer as set forth in this Section, except for those duties which are to be performed by the Unfit Building Hearing Officer.

B) A Public Hearing Officer, who shall hold hearings and issue orders in accordance with subsections 3-28.3 and 3-28.4 herein.

3-28.2 Conditions rendering buildings unfit for human habitation, occupancy or use; repair or demolition.

A. For the purposes of this Section, pursuant to N.J.S.A. 40:48-2.6, the Public Enforcement Officer may determine that a building is unfit for human habitation or occupancy or use if the Public Enforcement Officer 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 of Warren. Such conditions may include, but shall not be limited to, the following:

1. Defects therein increasing the hazards of fire, accident, or other calamities;
2. Lack of adequate ventilation, light or sanitary facilities;
3. Dilapidation, disrepair or structural defects;
4. Uncleanliness;
5. Failure to comply with the requirements of the building code or the certificate of occupancy.

3-28.3 Service of complaint and notice of hearing.

Whenever a petition is filed with the Public Enforcement Officer by a public authority as defined in subsection 3-28.1 herein, or by at least five residents of the Township of Warren, charging that any building is unfit for human habitation or occupancy or use in accordance with subsection 3-28.3, or whenever it appears to the Public Enforcement Officer, on his own motion, that any building is unfit for human habitation or occupancy or use, the Public Enforcement Officer shall, if 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, which complaint shall include a notice that (i) a hearing will be held before the Public Hearing Officer at a place therein fixed not less than seven days nor more than thirty days after the serving of said complaint; (ii) 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 fixed in the complaints; and (iii) the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings held pursuant to this Section.

3-28.4 *Contents of order.*

If, after such notice and hearing, the Public Hearing Officer determines that the building under consideration is unfit for human habitation or occupancy or use, the Public Hearing Officer shall state in writing any 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. The repair, alteration or improvement of the 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 to 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, that the owner remove or demolish said building within a reasonable time as specified in the order.

3-28.5 *Failure to comply.*

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 Enforcement Officer may cause such building to be repaired, altered or improved, or to be vacated and closed. The Public Enforcement 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."

3-28.6 *Removal by Township.*

If the owner fails to comply with an order to remove or demolish the building, the Public Enforcement 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.

3-28.7 *Municipal lien; sale of materials.*

A. The amount of:

1. 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 Section determined in favor of the Township of Warren; and

2. 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.

B. If the building is removed or demolished by the Public Enforcement Officer, the Public Enforcement Officer 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 exceeds the total of such credits, a detailed statement of the aforesaid costs and the amounts so due shall be filed with the Township Tax Collector 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 Public Enforcement 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.

3-28.8 *Imminent hazard.*

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 Enforcement Officer 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.

3-28.9 *Other powers.*

Nothing in this Section 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, 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, N.J.S.A. 52:27D-119 et seq., or any rules or regulations adopted thereunder.

3-28.10 *Manner of service of complaints and orders.*

Complaints or orders issued by the Public Officers pursuant to this Section 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 Public Officers 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 each week for two consecutive weeks in a newspaper printed and published in the Township of Warren or, in the

absence of such newspaper, in a newspaper printed and published in Somerset County and circulating in the Township. A copy of the complaint or order shall be posted in a conspicuous place on their premises affected by the complaint or order, and a copy of such complaint or order shall be duly recorded in the office of the Somerset County Clerk.

3-28.11 Remedies.

Any person aggrieved by an order issued by the Public Hearing Officer under this Section may, within thirty (30) days after the posting and service of such order, bring an action for injunctive relief to restrain the Public Enforcement 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 provided herein shall be exclusive, and no other person affected by an order of the Public Hearing 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 Hearing Officer.

3-28.12 Powers of Public Officers.

A. The Public 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 Section, according to their duties as set forth herein, including the following powers:

1. To investigate the building conditions in the Township of Warren in order to determine which buildings therein are unfit for human habitation or occupancy or use;
2. To administer oaths, affirmations, examine witnesses and receive evidence;
3. To enter upon premises for the purpose of making examination, provided that such entries shall be made in such manner to cause the least possible inconvenience to persons in possession;
4. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this Section;
5. To delegate any of his functions and powers under this Section to such officers and agents as he may designate;

3-28.13 Bidding required.

Any action taken using revenues derived from the local property tax shall be taken only after advertisement for, and receipt of, bids therefor, pursuant to the provisions of the "Local Public Contracts Law", N.J.S.A. 40A11-1 et seq. unless the action is necessary to prevent imminent danger to life, limb or property.

3-28.14 Administration.

The Township Administrator or his designee shall prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the buildings in the Township for the purpose of determining the fitness of such buildings for human habitation,

occupancy or use, and for the enforcement and administration of its ordinances adopted under N.J.S.A. 40:48-2.3 et seq.; and the Township is hereby authorized to make such appropriations from its revenues as it may deem necessary for this purpose and may accept grants or donations to assist it in carrying out the provisions of this Section.

SECTION II. Clause **b** of Subsection 2-40.3 entitled *Removal by Township; Emergency Measures; Costs Established as a Lien* is hereby deleted in its entirety. Section 2-40.3a shall remain, but shall be redesignated as Section 2-40.3.

SECTION III. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

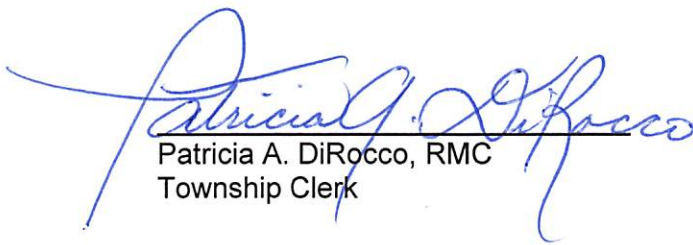
SECTION IV In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Warren, the provisions hereof

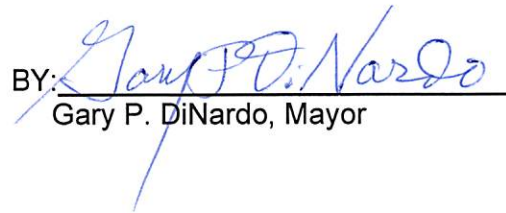
shall be determined to govern. All other parts, portions and provisions of *The Revised General Ordinances of the Township of Warren* are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION V. This Ordinance shall take effect immediately upon final passage and publication according to law.

ATTEST:

WARREN TOWNSHIP COMMITTEE


Patricia A. DiRocco, RMC
Township Clerk

BY: 
Gary P. DiNardo, Mayor

INTRODUCED: February 20, 2014

ADOPTED: March 13, 2014

EFFECTIVE: March 20, 2014