

TOWNSHIP OF MAHWAH
ORDINANCE NO. 1751

Intro: 5/22/14
Public Hearing: 6/19/14
Effect: 7/13/14

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER X, SECTION 10-4
OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MAHWAH TO
REGULATE UNSAFE BUILDINGS

WHEREAS, the Township of Mahwah desires to amend and supplement the provisions of Chapter X, Section 10-4 of the Revised General Ordinances of the Township of Mahwah entitled "Buildings Unfit for Human Habitation, Occupancy or Use" in its entirety.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mahwah as follows:

Section 10-4 of Chapter X of the Revised General Ordinances of the Township of Mahwah is hereby amended in its entirety as follows:

Section 1. Purpose and Authority.

- A. It is hereby found by the Township Council of the Township of Mahwah and hereby declared that there exists in the Township of Mahwah buildings, parts of buildings, or other facilities which are so old, dilapidated or have become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use and are inimical to the welfare and dangerous and injurious 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 building or buildings, mobile home parks or other facilities or part or parts thereof.
- B. Therefore, this chapter is hereby adopted to give this Township the power, pursuant to N.J.S.A. 40:48-2.5 et seq., to exercise the Township's police power to repair, close or demolish or cause or require the repairing, closing or demolition of such buildings, or other facilities, or part or parts thereof, or to abate any nuisance or correct any condition in accordance with the terms of N.J.S.A. 40:48-2.12 f.

Section 2. Enforcing Agency.

The Construction Code Official for the Township of Mahwah is hereby

Complaints or orders issued by the Construction Code Official pursuant to this chapter shall be served upon persons either by registered mail; or, if the whereabouts of such person is unknown and the same cannot be ascertained by the Construction Code Official in the exercise of reasonable diligence and the Construction Code Official 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 one time in The Record. A copy of said 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 or lodged for record with the County Clerk of Bergen County.

Section 7. Injunctive Relief.

Any person aggrieved by an order issued by the Construction Code Official under this chapter may, within 30 days after the posting and service of such order, bring an action for injunctive relief to restrain the Construction Code Official from carrying out the provisions of the order, in accordance with the provisions of N.J.S.A. 40:48-2.8. The remedy herein provided shall be exclusive, and no person affected by an order of the Construction Code Official shall be entitled to recover any damages for action taken pursuant thereto, or because of noncompliance by any person with any order of the Construction Code Official.

Section 8. Additional Powers of Construction Code Official.

The Construction Code Official may exercise the following 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 those already granted under this chapter:

- 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 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 deems necessary to carry out the purposes of this chapter.
- E. To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

Section 9. Authorization to Abate Nuisance; Lien.

The Township Council of the Township of Mahwah, by resolution, may authorize the Construction Code Official to abate a nuisance, correct a defect or put the premises in proper condition so as to comply with the requirements of any Township ordinance or state law applicable thereto, at the cost of the owner or lessor, and expend municipal funds for such purposes and charge the same against the premises and the amount thereof, as determined by the Township Council of the Township of Mahwah, shall be a lien against the premises.

Section 10. Appointment of Custodian; Receivership Action.

- A. The Township Council may, by resolution, appoint a custodian of any such building, structure or premises on behalf of the municipality, who may be either an officer of the Township or any other person specially designated to enter into and take charge of the premises and supervise abatement of the nuisance, the correction of the defective condition or the maintenance of the premises in a proper condition so as to conform to the requirements of all municipal ordinances and state laws applicable thereto.
- B. If the custodian is some person other than a full-time employee of the Township of Mahwah, he shall be paid an hourly rate equal to those Township employees paid by the Annual Salary Ordinance receiving the highest hourly rate. The costs and expenses of said custodian shall be collectible by the Township from the owner or lessor of the premises as provided in this chapter.
- C. In the event that any owner of a building or structure or premises in the municipality shall violate the provisions of this chapter, or fail to abate a condition harmful to the health and safety of the occupants of the

premises and the general public in the Township after notice and opportunity to do so, the Construction Code Official may, by and with the approval of the Township Council of the Township of Mahwah, bring an action in the Superior Court to be appointed receiver ex officio of the rents and income of such real property for the purpose of collecting the rents and income from such property and expend the same for purpose of abating said conditions. Said rents and income so collected by the receiver shall also be available for the payment of such costs and expenses of the receivership, as may be adjudged by the court, and for the payment to the municipality of any fines or penalties which may have been imposed on the owner for violations of this chapter and which have not been paid by the person liable therefor. Such receiver shall not be required to give bond and shall be appointed only for said purpose.

- D. Upon his appointment, the receiver, by and with the approval of the Township Council of the Township of Mahwah in all cases where the property in question is encumbered by a first mortgage, shall appoint such first mortgagee, if such mortgagee is a proper person and is willing to accept such appointment, as the receiver's agent to collect the rents and income from such real property and manage the same, and in all other cases the receiver, by and with the approval of the Township Council of the Township of Mahwah, may designate the person in charge or management of such real property or such other competent person as the receiver's agent to collect the rents and income from such real property and manage the same, which mortgagee or other person shall account promptly to the receiver for the rents and income so collected; provided, however, that if the mortgagee or other person so designated is derelict in collecting or accounting for such rents and income or in the management of such real property, the receiver shall apply to the court for the removal of such designated mortgagee or other person, upon notice in writing to him, and the court, upon removing such designated mortgagee or other person, in its discretion, may designate another person to collect the rents and income from such real property and manage the same and account to the receiver for the rents and income of such real property as aforesaid.
- E. In any such receivership, no fees shall be allowed the receiver, or his counsel, for actions as such receiver or counsel.

Section 11. All ordinances or parts of ordinances that are inconsistent with the

provisions of this ordinance are hereby repealed, but only to the extent of any inconsistencies.

Section 12. The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional or invalid by any court, the remaining parts of this ordinance will remain in full force and effect.

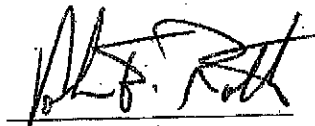
Section 13. This ordinance shall take effect upon passage and publication in accordance with N.J.S.A. 40:49-2(d).

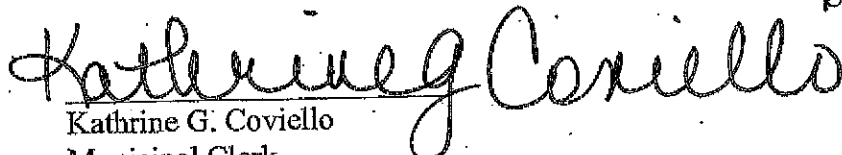
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Dated: July 23, 2014

Attest


John F. Roth
Council President


Kathrine G. Coviello
Municipal Clerk

I, Kathrine G. Coletta, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the 19 day of June, 2014.


Kathrine G. Coviello, RMC/CMC/MMC
Municipal Clerk