

Chapter 5

Code Enforcement

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Part 1**Office of Code Enforcement****§5-101. Establishment of Office of Code Enforcement.**

1. *Creation of Office of Code Enforcement.* There is hereby created by the Council of the Borough an office of the Borough to be known as the “Office of Code Enforcement.” The office shall have the responsibility for administering and enforcing the provisions of this Part and of those other codes and/or ordinances of the Borough (hereinafter referred to as the “applicable codes and ordinances”) which designate said Office of Code Enforcement as their official administration and enforcement agency. In lieu of the creation of such an office, the Council may enter into an agreement with the Westmoreland County Planning Department designating said Department to act as the Office of Code Enforcement for the Borough having all of the powers herein provided.

2. *Appointment of Code Enforcement Officer.* There shall be appointed by the Borough Council a Code Enforcement Officer who shall be in charge of the Office of Code Enforcement of the Borough. The Code Enforcement Officer shall supervise such other employees or assistants as shall be necessary for the administration and execution of the responsibilities of said office, as appointed and approved by the Council of the Borough. If the Westmoreland County Planning Department is designated as the Office of Code Enforcement of the Borough as provided under subsection .1 above, then the Code Enforcement Officer, together with any other required employees or assistants, shall be appointed by said Westmoreland County Planning Department. In such case, the Borough Council shall designate a Code Liaison Officer who shall coordinate all local activities and responsibilities of the Borough related to code enforcement with the Westmoreland County Planning Department.

3. *Relief from Personal Liability.* The Code Enforcement Officer or other official or employee shall not, while acting for the Borough, render himself liable personally because of any act or omission as required or permitted in the discharge of his official duties. Any suit instituted against such Code Enforcement Officer, official, or employee, because of any act performed by him in the lawful discharge of his duties, shall be defended by the Borough, and in no case will said officer, official, or employee be liable for costs in any action, suit, or proceeding.

4. *Official Record.* An official record shall be kept of all business and activities of the Office of Code Enforcement, and all of such records shall be open to the public for inspection at all appropriate times.

(Ord. 422, 5/4/1970, §1)

§5-102. Duties and Powers of Code Enforcement Officer.

1. *Enforcement by Code Enforcement Officer.* The Code Enforcement Officer shall enforce and administer all of the provisions of this Part and of those other applicable codes and ordinances which establish the Office of Code Enforcement as their official administrative and enforcement agency.

2. *Duties of Code Enforcement Officer.* The duties of the Code Enforcement Officer shall include the receipt of applications, the issuance of permits, notices, certificates,

and orders, the making of inspections to determine conformance with applicable codes and ordinances, the undertaking of research and investigations, the establishment of appropriate rules, the keeping of records, the issuance of written annual reports and such other activities as may be required.

3. *Right of Entry.*

A. In the discharge of his duties, the Code Enforcement Officer or his authorized representative shall, upon showing proper identification, have the authority to enter, at any reasonable hour, any structure or premises in the Borough to enforce the provisions of this Part and of those other applicable codes and ordinances. The assistance and cooperation of all other Borough officials, including Police and Fire Departments shall be available to the Code Enforcement Officer to assist in the performance of his duties and in securing right of entry.

B. The owner, operator, or occupant or other person in charge of any structure or premises shall give the Code Enforcement Officer free access thereto, and it shall be unlawful to refuse or impede entrance of the Code Enforcement Officer to said structure or premises for the purpose of making any required inspection.

C. If any such owner, operator, or other occupant or other person in charge refuses or impedes any required or lawful inspection, the Borough may seek, in a court of competent jurisdiction, an order that such owner, occupant, or person in charge shall cease and desist with such interference.

(Ord. 422, 5/4/1970, §2)

§5-103. Permits, Certificates, and Fees.

1. *Permit Required.* An application for a permit shall be required in accordance with the provisions of those other applicable codes and ordinances which the Office of Code Enforcement has the responsibility to administer. Said application shall be submitted in such form as may be prescribed by the Code Enforcement Officer and shall be accompanied by any required fee. All such applications shall be accompanied by proof that the permit required under §18-105, "Application for Tapping Permit," has been obtained or a certification has been made by the Sewage Plant Superintendent that such a permit is not required.

2. *Action on Application.* The Code Enforcement Officer shall examine said application to determine compliance with those other applicable codes and ordinances of the Borough and shall, within 15 days after filing, either approve or reject said application. If said application is rejected, the Code Enforcement Officer shall inform the applicant in writing, stating the reasons for such rejection.

3. *Required Fees.*

A. Applicants for permits required by any of the applicable codes and ordinances shall pay, at the time of application, to the Code Enforcement Officer for use by the Borough fees in amounts as established from time to time by resolution of Borough Council. [Ord. 624]

B. All permits granted under any of the applicable codes and ordinances shall be good for a period of 1 year, provided that extensions may be requested in writing and such extensions may be granted by the Code Enforcement Officer for good reason; except that any permit granted for demolition activities shall be valid for

6 months only, and if such demolition work is not completed within that time, any bond posted by the applicant shall be forfeited.

4. *Certificates.* The following certificates shall be required in accordance with the provisions of those other applicable codes or ordinances which the Office of Code Enforcement has the responsibility to administer:

A. *Certificate of Use and Occupancy.* A certificate of use and occupancy shall be required, and no new building or portion of an existing building which is enlarged or altered shall be used or occupied in whole or in part, until such a certificate of use and occupancy shall have been issued by the Code Enforcement Officer.

B. *Certificate of Approval.* A certificate of approval shall be required for any electrical or plumbing work completed under the provisions of the applicable codes and ordinances. All applicants shall apply to the Office of Code Enforcement for such a certificate of approval within 30 days of the completion of the building, structure, work, or premises.

C. *Other Certificates.* Any other permits, certificates, or licenses as required by the applicable codes and ordinances shall be obtained by the applicant in accordance with the provisions of said applicable codes and ordinances. Application for such permits, certificates, or licenses shall be made to the Code Enforcement Officer.

(Ord. 422, 5/4/1970, §3; as amended by Ord. 518, 8/5/1985, §1; by Ord. 528, 7/6/1987, §1; by Ord. 539, 1/2/1990, §1; and by Ord. 624, 1/19/2010)

§5-104. Violations and Penalties.

1. *Procedure in Case of Violations.* Whenever the Code Enforcement Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Part or of the other applicable codes and ordinances or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the responsible owner, operator or occupant as provided for hereinafter. Said notice shall consist of the following:

A. It shall be in writing and shall be signed by the Code Enforcement Officer.

B. It shall include a statement of the reason why the notice is being issued and the remedial actions required.

C. It shall allow a reasonable time for the correction of the violation alleged or of the remedial actions required except where emergency conditions exist which require immediate corrective action.

2. *Penalties.*

A. Any person who fails to correct a violation or take a remedial action as ordered by the Code Enforcement Officer or who violates a provision or fails to comply with any requirements of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$10 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 624]

B. The imposition of the penalties herein prescribed shall not preclude the Solicitor representing the Borough from initiating, and he is hereby ordered to initiate, appropriate actions or proceedings at law or in equity to effect the purposes of this Part.

(Ord. 422, 5/4/1970, §4; as amended by Ord. 624, 1/19/2010)

§5-105. Variances and Appeals.

1. *Code Hearing Board.* There is hereby established a Code Hearing Board, appointed by the Borough Council, which shall consist of three members who shall serve without compensation but may be reimbursed for necessary and reasonable expenses. Their terms of office shall all be for 3 years, except for those first appointed, so fixed that the term of office of at least one member shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term.

2. *Powers of the Code Hearing Board.* The Code Hearing Board shall have the following powers and duties:

A. *Interpretation.* On appeal from a determination of the Code Enforcement Officer or on request of any Borough official, the Code Hearing Board shall decide any questions involving the interpretation of any provision of this Part or of those other applicable codes and ordinances.

B. *Variances.* The Code Hearing Board may grant a variance only in those cases where the strict application of this Part or of those other applicable codes would result in practical difficulty or unnecessary hardship and where the public health and safety shall not be jeopardized.

C. *Decide Appeals.* The Code Hearing Board shall hear all appeals made to it and, depending on its findings, shall decide whether such appeals shall be granted.

3. *Requests for Appeals or Variances.* Any person requesting a variance or aggrieved by a decision of the Code Enforcement Officer or by any other employee or official charged with the administration and enforcement of this Part and of those other applicable codes or ordinances, may take an appeal to the Code Hearing Board. All appeals must be made in writing, stating the grounds upon which the appeal is based, and shall be transmitted to the Office of Code Enforcement. An appeal must be taken within 15 days of the action or of the receipt by written notice of any decision or ruling which is being appealed.

4. *Appeals and Variance Procedure.*

A. *Public Hearing.* The Code Hearing Board shall meet and conduct a hearing within 30 days of the receipt of an appeal or a request for a variance. All hearings shall be public and all persons whose interest may be affected shall be given an opportunity to be heard. A record shall be kept of all evidence and testimony presented at the hearing.

B. *Decision of the Board.* All decisions of the Board shall be in writing and a copy of each decision shall be sent to the applicant and to the Code Enforcement Officer. The Code Hearing Board shall also retain in its files a copy of each decision, which files shall be available for inspection by the public. Each decision shall set forth fully the reasons for the decision of the Code Hearing Board and the findings

of fact on which the decision was based. The Code Hearing Board shall make an order on its decision, and the Code Enforcement Officer shall take immediate action to carry out said order.

5. *Appeals from the Decision of the Code Hearing Board.* Any person or persons aggrieved by a final order or decision of the Code Hearing Board may appeal such order or decision within 30 days to the Court of Common Pleas in accordance with, as far as practicable, the Rules of Civil Procedure of the Supreme Court regarding appeals from administrative agencies.

6. *Reports by the Code Hearing Board.* The Code Hearing Board shall report to the Council of the Borough periodically, at intervals of not later than 12 months. The report shall summarize all applications and appeals made to it since the last report and shall contain a summary of the Board's decision on each case. A copy of the report shall be filed with the Code Enforcement Officer. The Code Hearing Board may also submit to the Council of the Borough advisory reports recommending charges and modifications in this Part or in those other applicable codes or ordinances.

(Ord. 422, 5/4/1970, §5)

§5-106. Short Title.

This Part shall be known and may be cited as the "Code Enforcement Ordinance" of the Borough.

(Ord. 422, 5/4/1970, §6)

Part 2**Uniform Construction Code****§5-201. General.**

The Borough of Mount Pleasant hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§7210.101–7210.1103, as amended from time to time, and its regulations.

(*Ord. 600, 7/6/2004, §1*)

§5-202. Adoption of Uniform Construction Code.

The Uniform Construction Code, contained in 34 Pa.Code, Chapters 401–405, as amended from time to time, is hereby adopted and incorporated herein by reference as the Borough Building Code of the Borough of Mount Pleasant (hereinafter the “Borough”).

(*Ord. 600, 7/6/2004, §2*)

§5-203. Administration and Enforcement.

Administration and enforcement of the Code within the Borough shall be undertaken in any of the following ways as determined by the Borough Council of the Borough from time to time by resolution:

A. By the designation of an employee of the Borough to serve as Code Official to act on behalf of the Borough.

B. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Borough.

C. By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an intermunicipal agreement.

D. By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of the Borough.

E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections, and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

(*Ord. 600, 7/6/2004, §3*)

§5-204. Board of Appeals.

A Board of Appeals shall be established by resolution of the Borough Council of the Borough in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

(*Ord. 600, 7/6/2004, §4*)

§5-205. Prior Ordinances.

1. All Building Code Ordinances or portions of ordinances which were adopted by the Borough on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.

2. All Building Code Ordinances or portions of ordinances which are in effect as of the effective date of this Part and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.

3. All relevant ordinances, regulations, and policies of the Borough not governed by the Code shall remain in full force and effect.

(Ord. 600, 7/6/2004, §5)

§5-206. Fees.

Fees assessable by the Borough for the administration and enforcement undertaken pursuant to this Part and the Code shall be established by Borough Council by resolution from time to time.

(Ord. 600, 7/6/2004, §6)

§5-207. Violations and Penalties.

Any person, firm, or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 600, 7/6/2004, §9; as amended by Ord. 624, 1/19/2010)

Part 3**Property Maintenance Code****§5-301. General.**

That a certain document, three copies of which are on file in the office of the Borough Manager of the Borough of Mount Pleasant, being marked and designated as the *International Property Maintenance Code*, 2006 edition, as amended from time to time, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Borough of Mount Pleasant, in the Commonwealth of Pennsylvania, for regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code on file in the office of the Borough of Mount Pleasant are hereby referred to, adopted, and made a part hereof, as if fully set out in this Part, with the additions, insertions, deletions, and changes, if any, prescribed in §5-302 of this Part. Council hereby declares that the Borough hereby adopts each and every subsequent update and edition of the *International Property Maintenance Code* or such replacement codes, automatically, as soon as they are published, by the International Code Council, with each subsequent update and/or edition automatically replacing the prior update and/or edition.

(Ord. 609, 5/21/2007, §1)

§5-302. Amendments.

The following sections are hereby revised:

A. Section 101.1 Insert: [THE BOROUGH OF MOUNT PLEASANT]. Additionally, the "Borough of Mount Pleasant" shall be inserted wherever the words "Jurisdiction" or "Name of Jurisdiction" appear in brackets or are otherwise used in said Code.

B. Section 103.5. Insert [The said Fee Schedule shall be as adopted by resolution of Mount Pleasant Borough Council, which Fee Schedule may be amended from time to time, also by resolution].

C. Section 302.4. For (jurisdiction to insert height in inches), insert [ten (10) inches].

D. Section 304.14. Insert [First Date Inserted: April 1; Second Date Inserted: October 1].

E. Section 602.3. Insert [First Date Inserted: October 1; Second Date Inserted: April 1].

F. Section 602.4. Insert [First Date Inserted: October 1; Second Date Inserted: April 1].

G. Whenever the term “legal officer” or “legal representative” is used in this code, it shall be held to mean the Borough Solicitor.

H. The code official referred to the §103.2 and in all other sections of the Code shall mean the Code Enforcement Officer of the Borough, or his authorized representative.

I. Sections 104.4 and 104.5 are deleted and in place thereof, the following is added:

104.4 Right of Entry: In the discharge of his duties, the Code Enforcement Officer and/or his authorized agents and/or representatives, upon showing proper identification where requested, are hereby authorized to enter and inspect, between the hours of 9 a.m. and 8 p.m., any structure or premise in the Municipality other than a private residence occupied by the owner, or any portion of a private residence occupied by the owner thereof, to enforce the provisions of this ordinance and of those other applicable codes and ordinances. The assistance and cooperation of all other municipal officials, including police and fire departments, shall be available to the Code Enforcement Officer to assist in the performance of his duties and in securing right-of-entry.

The Code Enforcement Officer and the owner, operator, or occupant or other person in charge of any structure or premises subject to the provisions of this ordinance may agree to an inspection by appointment at a mutually convenient time. The owner, operator or occupant or other person in charge of any structure or premises shall give the Code Enforcement Officer entry and free access thereto and to every part of the structure or to the premises surrounding the structure.

If any owner, operator or occupant or other person in charge fails or refuses to permit entry and free access to the structure or premises under his control, or to any part thereof, with respect to any authorized inspection, the Code Enforcement Officer may, upon a showing that probable cause exists for the inspection may file a complaint and may petition for and obtain an order directing compliance with the inspection requirements of this ordinance from a court of competent jurisdiction. Any person who refuses to comply with such an order issued pursuant to this section shall be subject to such penalties as may be authorized by law for violation of a court order.

J. Section 106.3 is hereby amended to read as follows:

106.3 Prosecution of Violation: Any person failing to comply with a notice of violation or order served in accordance with §107 shall be deemed guilty of a summary offense or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

K. Section 106.4 is hereby amended to read as follows:

106.4 Penalty: Any person, firm or corporation, who shall violate any provision of this code, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 624]

L. Section 111.2, including 111.2.1 through 111.2.5, is deleted in its entirety, and in place thereof, the following is added:

111.2 Board of Appeals: The Board of Appeals for these purposes shall be the Board of Appeals of the Central Westmoreland Council of Governments (“COG”), or such other Board as Borough Council may deem from time to time by future ordinance, resolution, motion, etc.

(Ord. 609, 5/21/2007, §2; as amended by Ord. 624, 1/19/2010)

§5-303. Regulations.

In all matters that are regulated by the laws of the Commonwealth of Pennsylvania or by regulations of departments or agencies of the Commonwealth promulgated by authority of law, such laws or regulations, as the case may be, shall control where the requirements thereof are the same as or in excess of the provisions of this Part. The code shall control in all cases where the state requirements are not as strict as those contained in this Part.

(Ord. 609, 5/21/2007, §3)

§5-304. Continuation of Prior Ordinances.

The provisions of this Part so far as they are the same as those of ordinances and/or codes in force immediately prior to the enactment of this Part, are intended as a continuation of such ordinances and codes and not as new enactments. The provisions of this Part shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of any of the repealed ordinances.

(Ord. 609, 5/21/2007, §4)

§5-305. Affects on Current Suits or Proceedings.

Nothing in this Part or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Part.

(Ord. 609, 5/21/2007, §7)

