

CHAPTER 5
CODE ENFORCEMENT

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PART 1

UNIFORM CONSTRUCTION CODE

§ 5-101. Election to Administer and Enforce Pennsylvania Construction Code Act. [Ord. 1139, 6/14/2004]

The Borough of Scottdale 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.

§ 5-102. Adoption of Uniform Construction Code. [Ord. 1139, 6/14/2004]

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 Scottdale (hereinafter the "Borough").

§ 5-103. Administration and Enforcement Provisions. [Ord. 1139, 6/14/2004]

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.

§ 5-104. Board of Appeals. [Ord. 1139, 6/14/2004]

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.

§ 5-105. Existing Ordinances. [Ord. 1139, 6/14/2004]

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.

§ 5-106. Fees. [Ord. 1139, 6/14/2004]

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.

§ 5-107. Effective Date. [Ord. 1139, 6/14/2004]

This Part shall be effective as of July 7, 2004.

§ 5-108. Validity. [Ord. 1139, 6/14/2004]

If any section, subsection, sentence, or clause of this Part is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this Part.

§ 5-109. Penalty. [Ord. 1139, 6/14/2004]

Any person violating any of the provisions of this Part shall be guilty of a summary offense and shall be subject to a penalty of not more than \$1,000, recoverable with costs of prosecution before a district justice, and, in the event that such penalty and costs are not paid, shall be subject to imprisonment in the Westmoreland County Jail for a period of not more than 30 days. Each such person shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provisions of this Part is committed, continued or permitted by such person and shall be punishable therefore as provided by this Part.

PART 2

INTERNATIONAL PROPERTY MAINTENANCE CODE

§ 5-201. Adoption of International Property Maintenance Code. [Ord. 1187, 7/11/2016]

A certain document, three copies of which are on file in the office of the Borough Manager of the Borough of Scottsdale, being marked and designated as the "International Property Maintenance Code, 2006 edition," as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Borough of Scottsdale, 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 therefor; 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 Scottsdale 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 § 5-202 of this Part.

§ 5-202. Revisions. [Ord. 1187, 7/11/2016]

1. The following sections are hereby revised:
 - A. Section 101.1. Insert: [the Borough of Scottsdale]. Additionally, the "Borough of Scottsdale" shall be inserted wherever the words "Jurisdiction" or "Name of Jurisdiction" appear in brackets or are otherwise used in said Code.

In addition, whenever the term "Chief Appointing Authority" is used in this code, same shall mean the "Council of the Borough of Scottsdale."
 - B. Section 102.3 of the Code is eliminated in its entirety and shall be replaced with the following:

Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the provisions and procedures set forth in the International Building Code, and any other ordinance, law or regulation promulgated by any other regulatory agency having jurisdiction over same.
 - C. Section 103.2 of the Code is eliminated in its entirety and shall be replaced with the following:

Appointment. The Code Official shall be appointed by the Council of Scottsdale Borough and shall serve at the discretion of Council until otherwise removed or replaced.

- D. Section 103.5. Insert [The said Fee Schedule shall be as adopted by resolution of Scottsdale Borough Council, which Fee Schedule may be amended from time to time, also by resolution].
- E. Section 104.2 of the Code is eliminated in its entirety and shall be replaced with the following:
- Authority. The Code Official shall have authority as necessary in the interest of the public health, safety and welfare to interpret and implement the provisions of this code; to enforce its provisions consistent with the purpose and intent of same; and to compel the implementation of additional construction requirements necessary to address local climatic conditions. No such additional requirements shall have the effect of waiving any structural or fire performance requirements specifically provided for in this code, or violate accepted engineering methods for the protection of public safety.
- F. Section 302.4. For (jurisdiction to insert height in inches), insert [10 inches].
- G. Section 304.14. Insert [First Date Inserted: April 1; Second Date Inserted: October 1].
- H. Section 602.3. Insert [First Date Inserted: October 1; Second Date Inserted: April 1].
- I. Section 602.4. Insert [First Date Inserted: October 1; Second Date Inserted: April 1].
- J. Whenever the term "legal officer" or "legal representative" is used in this code, it shall be held to mean the Borough Solicitor.
- K. The Code Official referred to the Section 103.2 and in all other sections of the code shall mean the Code Enforcement Officer of the Borough, or his authorized representative.
- L. 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 9:00 a.m. and 8:00 p.m., any structure or premises in the municipality other than a private residence occupied by the owner thereof, to enforce the provisions of this Part 2 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 Part 2 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, file a complaint and may petition for and obtain an order directing compliance with the inspection requirements of this Part 2 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.

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

106.3. Violations: Any person failing to comply with a notice of violation or order issued by the Code Official, or who otherwise keeps or maintains property or equipment contrary the terms set forth in this code, shall be deemed in violation thereof and shall be subject to those civil penalties set forth hereafter.

N. 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 shall be subject to a civil penalty of not less than \$300 nor more than \$600, and/or to imprisonment for not more than 90 days. Every day that a violation of this code continues shall constitute a separate violation without the initiation or filing of separate proceedings.

O. Section 106.5 is hereby amended to read as follows:

106.5. Abatement of violations and enforcement. The code official may initiate any proceeding at law or in equity to enforce the terms of the code. Such actions may include, but shall not be limited to:

- a. Actions for the collection of those civil penalties set forth above;
- b. Actions to abate and/or restrain any violation of same;
- c. Actions against the owner of the property upon which the violation occurs, or against any other person, corporation, entity or firm found to be responsible for the conditions giving rise to the violation, to compel the removal or correction of the conditions giving rise to the violation;

- d. Upon the failure of the owner of the property upon which the violation occurs, or of any other person, corporation, entity or firm found to be responsible for the conditions giving rise to the violation to voluntarily abate or restrain same, an action to permit the Borough's entry onto the property to abate and/or restrain the violation and recover the costs and expenses of same from the violating party.

The foregoing actions may be initiated separately or in combination before any tribunal having jurisdiction over same. Any action taken by the Borough to compel the abatement or restraint of any violation may include a request for judgment in an amount equal to the costs and expenses estimated to be incurred by the Borough in abating or restraining same. In addition to any other recovery, the Borough shall also be entitled to recover all counsel fees, costs and expenses incurred by the Borough in the enforcement of the Code or in the prosecution of any action to enforce the provisions of any order of the Code Official.

The Borough may collect any civil penalty or judgment entered in its favor, together with any award of counsel fees, costs or expenses, through an action in assumpsit against the person, corporation, entity or firm liable for same, or through the filing and/or prosecution of a municipal claim against the property.

- P. Section 102.2(5) and (6) of the code are amended to read as follows:

- (5) Inform the property owner, or other person responsible for the condition of the property, of the right to appeal to the Court of Common Pleas of Westmoreland County; and
- (6) Include a statement describing the penalties and enforcement remedies the Borough may seek against them.

- Q. The second sentence of Section 108.2 of the code, relating to the closing of vacant structures, is amended to read as follows:

Upon failure of the owner or other person responsible for the condition of property to close up the premises within the time specified in the order, the Code Official may cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and, thereafter, take any action at law or in equity to recover the costs of same consistent with Section 106.5 herein.

- R. The second sentence of Section 109.5 of the code, relating to the costs of emergency repairs, is hereby amended to read as follows:

The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs, together with all counsel fees, costs and expenses incurred in the prosecution of same.

- S. The second sentence of Section 109.6 of the code, relating to hearings and appeals arising from emergency actions taken by the Borough, is amended to read as follows:

Any affected person shall be entitled to petition the Court of Common Pleas of Westmoreland County for an immediate injunction to enjoin any emergency action by the Borough where the Borough has not yet taken same. Otherwise, all rights, privileges, claims and/or defenses of the affected person arising from any emergency action taken by the Borough shall be preserved.

- T. Section 110.3 of the code is hereby amended to read as follows:

If an owner of the premises or other person deemed to be responsible for the condition of property fails to comply with a demolition order within the time prescribed, the Code Official may cause the premises to be demolished and removed through any available public agency or by contract or arrangement by private persons and, thereafter, take any action at law or in equity to recover the costs of same consistent with Section 106.5 herein.

- U. Section 111 of the code is deleted in its entirety, and in place thereof, the following is added:

111. Right to Appeal: Any person, entity, corporation or firm aggrieved or otherwise affected by a notice, order or action taken by the Code Official or Borough herein may appeal same to the Court of Common Pleas of Westmoreland County, Pennsylvania, within 30 days of same.

All remaining provisions of Section 111 are repealed in their entirety.

§ 5-203. Terms and Requirements of Code to Control. [Ord. 1187, 7/11/2016]

Unless otherwise preempted by state or federal law, or any rule, regulation or law of any agency of the Commonwealth of Pennsylvania or United States of America, the terms and requirements of this code shall be controlling.

§ 5-204. Prior or Existing Regulations. [Ord. 1187, 7/11/2016]

That the provisions of this Part 2, 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.

§ 5-205. Construal of Provisions. [Ord. 1187, 7/11/2016]

To the extent the provisions of the 2006 International Property Maintenance Code as implemented herein are deemed or construed to be in conflict with any other

ordinance or portion of the Code of Scottsdale Borough, the terms of this Part and the 2006 International Property Maintenance Code as implemented herein shall be controlling. However, nothing in this Part or the 2006 International Property Maintenance Code as implemented herein shall prevent the Borough from taking action to remove dangerous structures under the Borough "Demolition Ordinance" separately from or contemporaneous with enforcement actions taken under the 2006 International Property Maintenance Code as implemented herein.

§ 5-206. Severability. [Ord. 1187, 7/11/2016]

If any section, subsection, sentence, clause or phrase of this Part is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Part. The Borough Council of the Borough of Scottsdale hereby declares that it would have passed this Part, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

§ 5-207. Pending Investigations and Proceedings. [Ord. 1187, 7/11/2016]

Nothing in this Part or in the Property Maintenance Code hereby adopted shall be construed to affect any pending investigation, or any suit or proceeding pending 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 as cited in § 5-205 of this Part or under the 2006 Property Maintenance Code as previously enacted; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Part.

§ 5-208. When Effective. [Ord. 1187, 7/11/2016]

This Part and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately upon its final passage and enactment.