

Chapter 5

Code Enforcement

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Part 1**Uniform Construction Code****§5-101. Election to Administer Construction Code Act.**

The Borough of Pitcairn 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. 933, 4/29/2004, §1*)

§5-102. Uniform Construction Code Implemented.

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 of Pitcairn Building Code.

(*Ord. 933, 4/29/2004, §2*)

§5-103. Administration and Enforcement.

Administration and enforcement of the code within the Borough of Pitcairn shall be undertaken in any of the following ways as determined by the governing body of this Borough from time to time by resolution:

A. By the designation of an employee of the Borough to serve as the municipal 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 the act through an intermunicipal agreement.

D. By entering into a contract with another Borough for the administration and enforcement of this act on behalf of this 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. 933, 4/29/2004, §3*)

§5-104. Board of Appeals.

A Board of Appeals shall be established by resolution of the Council of this 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. 933, 4/29/2004, §4*)

§5-105. Savings Clause.

1. All building code ordinances or portions of ordinances which were adopted by this 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 this Borough not governed by the code shall remain in full force and effect.

(Ord. 933, 4/29/2004, §5)

§5-106. Fees.

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

(Ord. 933, 4/29/2004, §6)

Part 2**Property Maintenance Code****§5-201. Adoption of the Property Maintenance Code.**

A certain document, three copies of which are on file in the office of the Borough Secretary of the Borough of Pitcairn, 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 Pitcairn, in the State 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 Pitcairn 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.

(Ord. 978, 5/31/2011)

§5-202. Amendments Made in Property Maintenance Code.

The following Sections are hereby revised:

A. Section 101.1. Insert: "Borough of Pitcairn."

B. Section 103.5. Amend §103.5, "Fees," to read:

§103.5. Fees. Fees for activities and services performed by the Borough under this code shall be in such amounts as established from time to time by resolution of Borough Council.

C. Section 302.4. Insert: "6 inches."

D. Section 304.14. Insert: "June 1 to September 30."

E. Section 602.3. Insert: "October 1 to May 31."

F. Section 602.4. Insert: "October 1 to May 31."

(Ord. 978, 5/31/2011)

§5-203. Savings Clause.

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. 978, 5/31/2011)

Part 3**Life Safety Code****§5-301. Adoption of Life Safety Code.**

The Borough hereby adopts, for the purpose of establishing minimum requirements that will provide a reasonable degree of safety from fire in buildings and structures, the Life Safety Code known as the *2006 NFPA Life Safety Code*, as published by the National Fire Protection Association, of which three copies have been and now are filed in the office of the Borough Secretary and the same are hereby adopted and incorporated as fully as if set out at length herein. From the date on which this Part shall take effect, the provisions thereof shall be controlling within the corporate limits of the Borough.

(Ord. 978, 5/31/2011)

§5-302. Construction.

The Life Safety Code adopted hereby is not intended to replace or repeal the building code and/or fire prevention code of the Borough, but is intended to be a supplement thereto in all matters contained in §§1-2 through 1-5, thereof.

(Ord. 978, 5/31/2011)

§5-303. Penalties.

The administration, enforcement and penalties for violation of the Life Safety Code adopted hereby shall be as provided in the Building Code of the Borough [Part 1].

(Ord. 978, 5/31/2011)

§5-304. Amendments.

The following Sections are hereby added as follows:

A. *§1.8. Enforcement Authority.*

(1) *§1.8.1. Code Enforcement Officer.* It shall be the duty of the designated Code Enforcement Officer to enforce the provisions of this code.

(2) *§1.8.2. Appointment.* The Code Enforcement Officer shall be appointed by the chief appointing authority of the jurisdiction and the Code Enforcement Officer shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

(3) *§1.8.3. Organization.* The Code Enforcement Officer shall appoint such number of officers, technical assistants, inspectors and others as shall be necessary for the administration of this code and as authorized by the appointing authority.

(4) *§1.8.4. Deputy.* The Code Enforcement Officer is authorized to designate a deputy who shall exercise all the powers of the Code Enforcement Officer during the temporary absence or disability of the Code Enforcement

Officer.

(5) *§1.8.5. Restriction on Employees.* An official or employee connected with the enforcement of this code, except one whose only connection is that of a member of the Board of Appeals established under the provisions of §1.14, shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a structure or the preparation of construction documents thereof, unless that person is the owner of the structure, nor shall such officer or employee engage in any work which conflicts with official duties of the department.

(6) *§1.8.6. Relief from Personal Responsibility.* The Code Enforcement Officer, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally and is hereby relieved from all personal liability for any damage accrued to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final determination of the proceedings. The Code Enforcement Officer or any subordinate shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any official, officer or employee, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

(7) *§1.8.7. Jurisdictional Liability.* The jurisdiction shall not be liable under this code for any damage to persons or property by reason of the inspection or reinspection of structures or equipment authorized herein, or failure to inspect or reinspect such structures or equipment, or by reason of the approval or disapproval of any structure or equipment authorized herein.

(8) *§1.8.8. Official Records.* An official record shall be kept of all business and activities of the department specified in the provisions of this code, and all such records shall be open to public inspection at all appropriate times and according to reasonable rules to maintain the integrity and security of such records.

B. *§1.9. Duties and Powers of the Code Official.*

(1) *§1.9.1. General.* The Code Enforcement Officer shall enforce all of the provisions and shall act on any question relative to the mode or manner of construction and the materials to be utilized in the location, occupancy and maintenance of all structures, except as otherwise specifically provided for by statutory requirements.

(2) *§1.9.2. Building Notices and Orders.* The Code Enforcement Officer shall issue all necessary notices or orders to ensure compliance with this code.

(3) *§1.9.3. Inspections.* The Code Enforcement Officer shall make all of the required inspection or the Code Enforcement Officer shall accept reports of

inspections by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Enforcement Officer is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

(4) *§1.9.4. Identification.* The Code Enforcement Officer shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

(5) *§1.9.5. Rules and Regulations.* The Code Enforcement Officer shall have the authority as necessary in the interest of public health, safety and general welfare to adopt and promulgate rules and regulations, to interpret and implement the provisions of this code to secure the intent thereof and to designate requirements applicable because of local and climatic or other conditions. Such rules shall not have the effect of waiving any fire or other safety requirements specifically provided for in this code, or of violating accepted engineering practice involving public safety.

(6) *§1.9.6. Department Records.* The Code Enforcement Officer shall keep records of certificates issued, reports of inspections and notices and orders issued. Such records shall be retained in the official records as long as the structure or activity to which such records relate remains in existence, unless otherwise provided by other regulations.

(7) *§1.9.7. Annual Report.* At least annually, the Code Enforcement Officer shall submit to the chief authority of the jurisdiction a written statement of operations in the form and content as shall be prescribed by such authority.

C. *§1.10. Inspection.*

(1) *§1.10.1. Inspection.* The Code Enforcement Officer shall inspect all structures and premises for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life or any violations of the provisions or intent of this code or any other ordinance affecting fire safety.

(2) *§1.10.2. Coordination of Inspections.* Whenever, in the enforcement of this code or another code or ordinance, the responsibility of more than one code official of the jurisdiction is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting order. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the finding to the code official having jurisdiction.

(3) *§1.10.3. Right of Entry.* The Code Enforcement Officer is authorized to enter the structure or premises at any reasonable time to inspect subject to constitutional restriction on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as

provided by law.

(4) *§1.10.4. Jurisdictional Cooperation.* The assistance and cooperation of police, building and health department officials and other officials shall be available as required in the performance of duties.

D. *§1.11. Unsafe Conditions.*

(1) *§1.11.1. General.* Whenever the Code Enforcement Officer shall find in any structure or upon any premises dangerous or hazardous conditions or materials as provided herein, the Code Enforcement Officer shall order such hazardous conditions or materials to be removed or remedied in accordance with the provisions of this code.

(2) *§1.11.2. Maintenance.* All equipment, systems, devices and safeguards required by this code, or a previous statute or code, for the structure or premises when erected or altered shall be maintained in good working order. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and life safety systems and devices in existing structures.

(3) *§1.11.2.1. Occupants Responsibility.* If an occupant of a structure creates conditions in violation of this code by virtue of storage, handling and use of substances, materials, devices and appliances, the occupant shall be held responsible for the abatement of such hazardous conditions.

(4) *§1.11.3. Unsafe Conditions.* All structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress facilities, or that constitute a fire hazard or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed unsafe. A vacant structure that is not secured against entry shall be deemed unsafe. Unsafe structures or equipment shall be reported to the building code official, who shall take appropriate action as deemed necessary under the provisions of the appropriate code.

E. *§1.12. Emergency Measures.*

(1) *§1.12.1. Imminent Danger.* When, in the opinion of the Code Enforcement Officer, there is imminent danger to the occupants or those in the proximity of any structure or premises because of unsafe conditions, or inadequacy of any means of egress, the presence of immediate evacuation of said structure or premises. All occupants so notified shall immediately leave the structure or premises and persons shall not enter or re-enter until authorized to do so by the Code Enforcement Officer.

(2) *§1.12.2. Unlawful Continuance.* Any person who refuses to leave, interferes with the evacuation of other occupants or continues any operation after having been given an evacuation order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed guilty of an offense.

F. *§1.13. Violations.*

(1) *§1.13.1. Notice of Violation.* Whenever the Code Enforcement Officer observes an apparent or actual violation of a provision of this code or other

codes or ordinances under the code official's jurisdiction, the Code Enforcement Officer shall prepare a written notice of violation describing the condition deemed unsafe and specifying time limitations for the required repairs or improvements to be made to render the structure or premises safe and secure.

(a) *§1.13.1.1. Service of Notice.* The written notice of violation of this code shall be served upon the owner or occupant or other person responsible for the conditions under violation. Such notice of violation shall be served by delivering a copy of same to such person by ordinary mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or in the case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access, and such procedure shall be deemed the equivalent of personal notice.

(2) *§1.13.2. Failure to Correct Violations.* If the notice of violation is not complied with within the time specified by the Code Enforcement Officer, the Code Enforcement Officer shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of any order or direction made pursuant thereto. The police department of the jurisdiction shall be requested by the Code Enforcement Officer to make arrests for any offense against this code or orders of the Code Enforcement Officer affecting the immediate safety of the public.

(3) *§1.13.3. Penalty for Violations.* Any person who shall violate any provision of this code or shall fail to comply with any order issued pursuant to any Section hereof shall, upon conviction thereof, be sentenced to pay a fine of not less than \$100 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 continues after due notice has been served shall be deemed a separate offense.

(4) *§1.13.4. Abatement of Violation.* The imposition of the penalties herein described shall not prevent the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrict, correct or abate a violation; or prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

G. *§1.14. Means of Appeal.*

(1) *§1.14.1. Application for Appeal.* Any person shall have the right to appeal a decision of the Code Enforcement Officer to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this do not fully apply if an equally good or better method of fire prevention is proposed. The application shall be filed on a form obtained from the Code Enforcement Officer official within 30 days after notice was served.

(2) *§1.14.2. Members of the Board.* The Board of Appeals shall consist of

five members appointed by the chief appointing authority as follows:

- A. One for 5 years.
- B. One for 4 years.
- C. One for 3 years.
- D. One for 2 years.
- E. One for 1 year.

Thereafter, each new member shall serve for 5 years or until a successor has been appointed.

(a) *§1.14.2.1. Qualifications.* The Board of Appeals shall consist of owners of property in the Borough, whether or not residing within the Borough, whose tax payments are current, or nonproperty owners who are registered voters living within the Borough.

(b) *§1.14.2.2. Alternate Members.* The chief appointing authority shall appoint two alternate members who shall be called by the Board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for Board membership and shall be appointed for 5 years or until a successor has been appointed.

(c) *§1.14.2.3. Chairman.* The Board shall annually select one of its members to serve as chairman.

(d) *§1.14.2.4. Disqualification of a Member.* A member shall not hear an appeal which that member has any personal, professional or financial interest.

(e) *§1.14.2.5. Secretary.* The chief administrative office shall designate a qualified clerk to serve as secretary to the Board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

(f) *§1.14.2.6. Compensation of Members.* Compensation of members shall be determined by law.

(3) *§1.14.3. Notice of Meeting.* The Board shall meet upon notice from the chairman, within 10 days of the filing of an appeal, or at stated periodic meetings.

(4) *§1.14.4. Open Hearing.* All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Code Enforcement Officer and any person whose interests are affected shall be given an opportunity to be heard.

(a) *§1.14.4.1. Procedure.* The Board shall adopt, and make available to the public through the secretary, procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(5) *§1.14.5. Postpone Hearing.* When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request and receive a postponement of the hearing. A new hearing

shall be held within 5 days.

(6) *§1.14.6. Board Decision.* The Board shall modify or reverse the decision of the Code Enforcement Officer by a concurring vote of three members.

(a) *§1.14.6.1. Resolution.* The decision of the Board shall be by resolution. Certified copies shall be furnished to the appellant and the code official.

(b) *§1.14.6.2. Administration.* The Code Enforcement Officer shall take immediate action in accordance with the decision of the Board.

(c) *§1.14.6.7. Court Review.* Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law after the filing of the decision in the office of the chief administrative officer.

(*Ord. 978, 5/31/2011*)

