

**MOUNT POCONO BOROUGH
MONROE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 4 of 2016

AN ORDINANCE AMENDING ORDINANCE CHAPTER 149 OF THE BOROUGH OF MOUNT POCONO, MONROE COUNTY, PENNSYLVANIA, TO AMEND THE PROPERTY MAINTENANCE CODE

This is an Ordinance for purposes of regulating property maintenance for all properties located within the Borough of Mount Pocono and may be referred to herein as Borough.

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SECTION 1 - Title

This article shall be known as Borough of Mount Pocono Property Maintenance Code and may be referred to herein as “Maintenance Code”.

SECTION 2 – Purposes and Authority.

- A. Purposes – The purposes of the Maintenance Code are to establish minimum standards of property maintenance to (1) protect, preserve and promote the safety, physical and mental health and social well-being of the citizens of the Borough of Mount Pocono and the general public; (2) to reduce environmental hazards to health; (3) for the withholding of certain Borough permits and approvals; (4) for the assessment of the cost of vacation, removal, repair or demolition thereof as a municipal lien or assessment against such properties; (5) providing for the recovery of such costs in an action at law; and prescribing penalties for violation of the Ordinance. The further purposes of this Maintenance Code are to establish the responsibilities of owners and occupants for compliance with the standards included herein, and to make provision for administration and enforcement and to fix penalties for violations thereof.

- B. Authority - This ordinance is ordained and enacted under the authority granted by Section 48204-A of the Borough Code, 53 P. S. Section 48204-A, as amended, and the Neighborhood Blight Reclamation and Revitalization Act of 2010, 53 P. S. Chapter 61, as amended.

SECTION 3 – Scope.

The provisions of this Maintenance Code shall apply uniformly to the maintenance and use of all buildings, structures and premises, including individual, residential, commercial, industrial and institutional uses and uses included in shopping centers and industrial parks. The provisions shall apply uniformly to existing premises, buildings and structures, irrespective of when or under what codes said buildings were originally constructed, altered or repaired, and to all buildings and structures hereafter constructed.

SECTION 4 – Definitions and Word Usage.

- A. Unless otherwise expressly stated, the following terms shall, for the purposes of this Maintenance Code, have the meanings indicated in this article.

- B. The word “shall” is always mandatory and not merely directory.

- C. Words uses in the present tense include the future, the singular number includes the plural, and the plural the singular, where terms are not defined in this article but are defined in other codes, including the Uniform Construction Code, they shall have the meanings described to them in the Uniform Construction Code,

BOARD OF APPEALS – Would consist of a minimum of three (3) and a maximum of five (5) full-time residents of the Borough for a term not to exceed four (4) years and to be appointed by Borough Council.

BOROUGH – The Borough of Mount Pocono, Monroe County, Pennsylvania.

BOROUGH PERMITS- Privileges relating to real property granted by the Borough, including, but not limited to, building permits, zoning permits and occupancy permits. The term includes approvals pursuant to zoning, subdivision and land development, floodplain and other land use ordinances other than decisions on the substantive validity of a zoning ordinance or map or the acceptance of a curative amendment.

DETERIORATIONS – Deteriorated Structures and/or Dangerous Conditions – All the structures or buildings and/or conditions which have any or all of the following defects:

- A. Those which have been damaged by fire, wind or other cause so as to fail utterly to provide the amenities essential to decent living and are unfit for human habitation.

- B. Those which have been damaged by fire, wind or other cause so as to have become dangerous to the life, safety, or the general health and welfare of the occupants or the citizens of the Borough.

- C. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities to decent living so that they are unfit for human habitation.

- D. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living and are likely to cause accidents, sickness, or disease, so as to work injury to the health safety, or general welfare of those living therein as well as other citizens of the Borough.

- E. Those which have parts thereof which are so attached that they might fail and injure members of the public or adjoining property.

- F. Those which because of their general condition are unsafe, unsanitary, or dangerous to the health, safety or general welfare of the citizens of the Borough.

EXPOSED TO PUBLIC VIEW – Any premises, or any part thereof, or any building or any part thereof, which may be lawfully viewed by the public, from a public street, sidewalk or right-of-way.

EXTERMINATION – The control and elimination of insects, rodents, vermin and other pests.

GARBAGE – Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food or other organic materials.

INFESTATION – The presence of insects, rodents, vermin or other pests on the premises which constitutes a health hazard.

NUISANCE

- A. Any public nuisance known at common law or in equity jurisprudence or as provided by the statutes or regulations of the Commonwealth of Pennsylvania or the ordinance or regulations of Monroe County or the Borough Mount Pocono.
- B. Any attractive nuisance which may prove detrimental to the health or safety of persons whether in a building, on the premises of a building, or upon an unoccupied lot, this includes, but is not limited to, abandoned wells, shafts, basements, excavations, abandoned refrigerators, motor vehicles or other equipment, trash or debris, which may prove hazardous to inquisitive persons.
- C. Unsanitary conditions or anything dangerous to health, in violation of this Maintenance Code.

OPERATOR – Any person who has charge, care or control of a building premises or a part thereof, whether with or without the knowledge and/or consent of the owner.

OUTSIDE PREMISES – Open space on the premises outside of any building thereon.

OWNER – An person who, alone or jointly or severally with others, shall have a legal or equitable title to any premises with or without accompanying actual possession thereof, or shall have charge, care or control of any premises as owner or agent of the owner or as executor, administrator, trustee, receiver or guardian of the estate or as a mortgage in possession, regardless of how such possession was obtained. Any person who is a lessee subletting or reassigning any part or all of any premises shall have join responsibility over the portion of the premises sublet or assigned by said lessee.

PREMISES – A lot, plot or parcel of land, including the buildings or structures thereon, which is subject to this Maintenance Code.

PUTRESCIBLE – Liable to undergo putrefaction; becoming rotten and foul-smelling.

REFUSE – All putrescible and non-putrescible solid waste (except body waste), including but not limited to, glass, garbage, rubbish, ashes, street cleanings, dead animals, uninspected or unregistered vehicles, and solid market and industrial wastes.

RUBBISH – Non-putrescible solid wastes, consisting of both combustible and noncombustible waste, such as paper, wrappings, cigarettes, cardboards, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

WEATHERING – Deterioration, decay, rotting or damage caused by exposure to the elements.

SECTION 5 – Nuisances Declared; Responsibility

- A. Nuisances Declared – All “deteriorated structures and/or dangerous conditions” are hereby declared to be public nuisances and shall be repaired, vacated, demolished or abated.
- B. Responsibility – It shall be the responsibility of the property owner of the premises upon which any public nuisance is situated and/or occurring to provide for the repair, vacation, demolition or abatement of such public nuisance.
 1. No owner shall be relieved of responsibility for compliance nor be entitled to defend against any change or violation thereof by reason of the fact that he has contracted with an agent to be responsible therefore or by reason of the fact that the owner’s agent or the occupant is also jointly responsible therefore or in violation thereof.
 2. Responsibility for structural repairs, maintenance and painting of the exterior of the building, parking lot, sidewalk

and curb repairs, maintenance and other requirements.

SECTION 6 – Minimum requirements for building exterior and outside premises.

- A. Outside premises. All outside premises, whether occupied or vacant, shall be kept free of unsanitary conditions and of all nuisances and any hazards to the safety of occupants, pedestrians and other persons utilized or exposed to the premises. Unsanitary, conditions, nuisances and hazards include, but are not limited to, the following for any outside premises:
1. Vegetation, defined as:
 - a. Hedges, trees, shrubs or other vegetation that obstruct the approach sight distance of any highway, street, driveway, traffic signal, traffic, signal sign or crosswalk.
 - b. Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions.
 2. Loose and overhanging objects and accumulations, of ice and snow which by reason of location above ground level constitute a danger of falling on and causing injury or damage to persons or property in the vicinity thereof.
 3. Ground surface hazards or unsanitary conditions, including holes, excavations, breaks, projections, obstructions, icy conditions, unclear snow and excretion of animals on paths, walks, driveways, parking lots and parking areas, and other parts of the premises which are accessible to and used by persons on the premises.
 4. Recurring accumulation of stormwater. Adequate runoff drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of stormwater.
 5. Sources of infestation, all structures and outside premises shall be kept free from insect infestation and rodent harborage.
 6. All sidewalks, walkways, public driveways, parking spaces and similar areas on or abutting the property shall be maintained free from conditions that are hazardous to pedestrians, including but not limited to, permanent or semi-permanent obstructions, branches or limbs that overhang such walkways shall be no less than seven (7) feet above the walkway below.
 7. All premises shall be kept free from an accumulation of rubbish and refuse, the owner of every occupied premises shall supply leak proof containers with tight-fitting covers for rubbish and garbage and the owner of the premises shall be responsible for the removal of rubbish and garbage. Every occupant of a structure shall dispose of all rubbish and garbage in a sanitary manner by placing such rubbish in containers. Composing materials placed in piles, ventilated bins or pits shall not be considered garbage, rubbish or refuse provided the material is periodically turned or mixed. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on any outside premises without first removing the doors.
- B. Exterior of buildings and structures. The following maintenance requirements shall apply to the exterior of all buildings and structures, including accessory buildings and structures:
1. The exterior of every structure or accessory structure (including fences) shall be maintained in a condition or state of repair which is free of broken or missing glass, loose shingles, crumbling stone or brick, excessive peeling paint, rotted wood or other conditions indicative of deterioration or inadequate maintenance to the end that the property itself may be preserved in good condition, safety and fire hazards eliminated and so rain, rodents, insects, vermin or other pests or animals likely to cause deterioration shall be prevented from entering.
 2. Exterior porches, landings, balconies, stairs, fire escapes, banisters, railings and decorative features such as cornices, belt courses, corbels, terra cotta trim and wall facings shall be kept structurally sound and properly maintained.
 3. Foundation walls, columns, posts, piers, chimneys, handrails, guards and other structural members shall be kept structurally sound and free from defects and damage.
 4. Windows, exterior doors and basement hatchways shall be substantially tight, within frames when closed, and kept in sound condition and repair, without open cracks or holes.
 5. Roofs and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to

prevent dampness or deterioration. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

6. In the event that the exterior surface of any structure, or building on any public or private property has been defaced or damaged by a marking, carving or graffiti, it shall be the responsibility of the property owner to remove or repair any such marking, carving or graffiti within ten (10) days. Obscene or offensive marking, carving or graffiti shall be subject to removal immediately as determined by the Code Official.

C. Maintenance of commercial, industrial and institutional uses. In addition to the maintenance requirements for outside premises and exterior structures of Subsections A and B above, the owner and/or lessees, assignee or entity responsible by contract for maintenance of any shopping center, industrial park or other commercial, industrial or institutional use shall be responsible for:

1. Full maintenance, repair and cleanliness of all roadways, parking areas, lawns, landscaped areas and buffer strips and other outside premises, including the regular removal of litter, refuse and mowing of lawn areas.
2. Repainting or remarking of traffic lines and lanes indicating parking spaces, traffic flow, fire lanes, pedestrian walkways and other traffic control designations, so as to be clear and conspicuous at all times.
3. The maintenance, replacement or repair of paving, bumper clocks, guide rails and lighting installations in parking areas and entrance thereto.
4. The maintenance of any fences in good repair along the perimeter of the premises.
5. The prompt removal or abatement of any nuisances and any hazard to the health and safety of occupants, pedestrians, motorists and other persons utilizing or exposed to the premises.
6. The removal and replacement of plantings or other landscaping features which were required as a condition of site plan or other approval but which did not survive.
7. The maintenance of all signs in good repair, any sign which has weathered excessively or faded or the paint on which has excessively peeled or cracked, such that the sign no longer serves its intended purpose shall, with its supporting members, be removed or put into a state of good repair. All uncooperative electrical signs shall be repaired or shall, with their supporting members, be removed. All signs shall comply with the sign ordinance requirements.
8. The maintenance of any awning or marquee in good repair. Such awning or marquee shall not show evidence of excessive weathering, discoloration, ripping, tearing or other deterioration and shall not constitute a nuisance or safety hazard.

SECTION 7 – Vacant or unsafe structures.

- A. Closing of vacant structures. All vacant structures and premises thereof or vacant land shall be maintained in a safe, secure and sanitary condition so as not to adversely affect public health or safety. If a structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Code Official is authorized to order the structure closed up so as not to be a nuisance. Upon failure of the owner to close up vacant premises within the time limit specified in the order, the Code Official shall cause the premises to be closed and secured through any available public agency or by contractor arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any legal means.
- B. Emergency measures. When there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of any structure has fallen and life is endangered by the occupant of the structure, or when there is actual or potential danger to the building occupants or those in proximity of any structure, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This structure is unsafe and its occupancy has been prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purposes of securing the structure, making the required repairs, removing the hazardous condition or demolishing the same. The Code Official shall order the necessary work to be done, including the boarding up of openings to render such structure temporarily safe and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency. The Borough may institute appropriate action against the owner of the premises where the unsafe structure is or was for the recovery of any costs incurred by the Borough in the performance of emergency work.

- C. Demolition. The Code Official shall order the owner of any structure which is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure to demolish or remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or when there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure. If the owner of a structure fails to comply with a demolition order within the time prescribed, the Code official shall cause the structure to be demolished and removed, either through and available public agency or by contract or arrangement with a private person, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be come a lien against such real estate.

SECTION 8 – Enforcement.

The Borough's Code Enforcement Officer is hereby designated as the Code Official herein. The Code Official shall have the right to issue necessary notices of violation in order to abate illegal or unsafe conditions and in the event of noncompliance, to institute appropriate actions at law or in equity. The Code Official shall have the right to enter any property or structure (1) pursuant to administrative warrant; (2) that is abandoned; (3) with the consent of the owner or occupant; or (4) in the case of exigent circumstances, including imminent danger of injury to any person or serious damage to property. An administrative warrant shall be issued by a District Justice or other court of competent jurisdiction upon a showing of: (1) specific evidence of an existing statutory or regulatory violation; or (2) a reasonable plan supported by a valid and neutral public interest. The defendant named in the warrant shall reimburse the Borough of cost and reasonable attorney fees expended to obtain the warrant.

The Enforcement Officer or Borough agent may, with the authorization of the Borough Council, consult with the Borough Engineer, Building Inspector or any other qualified person in reaching a determination as to whether a deteriorated structure or dangerous condition exists in violation of this ordinance.

SECTION 9 – Notices.

- A. The Code Official shall issue all necessary notices or orders to ensure compliance with this Maintenance Code. Whenever the Code Official determines that there has been a violation of this Maintenance Code or has grounds to believe that a violation has occurred, notice shall be given to the owner of the property, the lessee of the property and/or the person responsible for the violation as specified in this Maintenance Code.
- B. The form of such notice shall be in accordance with all of the following:
1. Be in writing.
 2. Include the Monroe County tax parcel identification number and address for the real estate.
 3. Include a statement of the violation or violations and why the notice is being issued.
 4. Include a correction order allowing a minimum of thirty (30) days from receipt of the letter to make the repairs and improvements required to bring the premises into compliance with the provisions of this Maintenance Code.
 5. Inform the property owner, lessee and/or person responsible for the violation of a right to appeal. A written request must be received within thirty (30) days after such notice is served.
 6. Include a statement of the right file a lien in accordance with the provisions of this Maintenance Code.
 7. Include a statement informing the property owner of the Borough's right to pursue additional enforcement proceedings before a Magisterial District Judge and/or the Court of Common Pleas of Monroe County and assessment of any and all costs, expenses (including, but not limited to, constable, attorney, engineering and consulting fees), and penalties incurred against the land on which the violation is located. Each day the violation continues after due notice has been served shall constitute a separate offense.
- C. Such notice shall be deemed to be properly served if a copy thereof is:
1. Delivered personally or by constable service;
 2. Sent by certified mail to the owner of record as indicated by the Monroe County Tax Department and/or the occupant; or
 3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in conspicuous place

in or about the premises affected by such notice.

- D. Said notice requirement to invoke the penalty provisions of this Maintenance Code shall not be required, however, in the event of an emergency situation where there is imminent danger of substantial harm to property or a threat to human lived. Personal notice to the owner or occupant of the property shall constitute the necessary notice required to invoke the penalty provisions of this Maintenance Code.

SECTION 10 – Standards for Repair, Improvement, vacation or Demolition.

The following standards shall be applied in ordering the repair, improvement, vacation or demolition of a dangerous condition or deteriorated structure.

- A. Repair/Improve – If the dangerous premises can be reasonably be repaired or improved so that it will no longer exist in violation of this Ordinance, it shall be ordered to be repaired or improved.
- B. Vacate – If the deteriorated or dangerous premises is in such condition as to make it dangerous to the health, safety or general welfare of its occupants or the public, and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding thirty (30) days, as is reasonable.
- C. Habitation – No premises which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Enforcement Officer or a Borough official. The enforcement Officer or Borough official shall remove such placard whenever the particular defect or defects cited in the placard have been eliminated.
- D. Demolition – If a deteriorated building is so damaged or decayed, or deteriorated from its original condition so that it cannot be repaired to no longer exist in violation of the terms of this Ordinance; or if a deteriorated building is a fire hazard existing or erected in violation of the terms of this Ordinance or any other local or state regulations, it shall be order to be demolished.
- E. Disposal – All demolition waste shall be disposed of in accordance with all applicable Borough, state and federal regulations.

SECTION 11 – Hearings.

The Board of Appeals shall conduct hearing in accord with The Local Agency Act and the following.

- A. Failure to Request Hearing – Any notice served pursuant to this Ordinance shall automatically become an order if a written request for a hearing is not filed with the Board of Appeals within thirty (30) days after such notice is served.
- B. Hearing Request
1. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Ordinance may request in writing, and shall be granted, a hearing on the matter before the Board of Appeals provided that such person shall file a written request with the Board containing a brief statement of the grounds therefore within thirty (30) days after the day the notice was served in accord with Section 9.C. If no written request for a hearing is filed with the Board within thirty (30) days after the notice has been served in accordance with Section 9.C, the notice will be deemed an order.
 2. Upon receipt of such request, a time and place for such hearing shall be scheduled and advertised in accord with the Pennsylvania Sunshine Law. The Board of Appeals shall commence the hearing no later than sixty (60) days after the on which the request was received in the Borough offices.
- C. Board Action
1. At such hearing the person requesting the hearing shall be given an opportunity to be heard and to show cause why the public nuisance(s) described in the notice should not be abated. Borough representatives shall also offer testimony and evidence related to the notice.
 2. Within thirty (30) days of such hearing, the Board of Appeals will make written findings of the fact from the testimony and evidence offered at the hearing and issue a decision to:
 - a. Sustain the notice; or
 - b. Modify the directives which are the subject of the notice and attach conditions; or

c. Withdraw the notice.

If the Board sustains or modifies such notice, it shall be deemed to be an order.

- D. Appeal – Any aggrieved party may appeal the final order to the Court of Common Pleas of Monroe County in accordance with the provisions of the Pennsylvania Local Agency Law.
- E. Fee – The person requesting the hearing shall pay the fee for such hearing as may be established by resolution of the Borough Council.

SECTION 12 – Violations and penalties.

Any person, firm, corporation, partnership or other entity who or which violates or permits a violation of this Ordinance, after notice as set forth in Section 9 above, upon being found liable in a civil enforcement proceeding, shall pay a fine of not more than \$1,000.00, plus all court costs, and all reasonable attorney's fees, incurred by the Borough in the enforcement of this Maintenance Code. No judgement shall be imposed until the date of the determination of the violation by the District Justice. If the defendant neither pays nor timely appeals the judgement, the Borough may institute appropriate proceedings at law or in equity to restrain, correct or abate such violation or to require the removal or termination of unlawful occupation of the premises in violation of the provisions of this Maintenance Code. Each day the violation continues after due notice has been served shall constitute a separate offense. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance therewith. In addition, the Borough may seek any and all remedies available to it pursuant to Act 90 of 2010 as passed by the Pennsylvania General Assembly and signed into law by the Governor. Nothing contained herein shall preclude the Borough from seeking a monetary judgement for any and all costs incurred against the property owner and/or responsible party herein.

- A. Out-of-State Owners of Real Estate – A person who lives or has a principal place of residence outside this Commonwealth, who owns property in this Commonwealth against which code violations have been cited and the person is charged under 18 PA.C.S. (relating to crimes and offenses), and who has been properly notified of the violations may be extradited to this Commonwealth to face criminal prosecution to the full extent allowed and in the manner authorized by 41 Pa. C.S. Ch.91 (relating to detainers and extradition).

SECTION 13 – Means of Appeal.

The Borough shall form a Board of Appeals, hereinafter referred to as "Board", which Board shall hear and decide appeals, orders, decisions or determinations made by the Code Official relative to the application and interpretation of all building and property maintenance codes including this Maintenance Code. Any person directly affected by a decision of the Code Official or a notice or order issued under this Maintenance Code shall have the right to appeal to the Board, provided that a written request or appeal is filed within thirty (30) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of the Maintenance Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Maintenance Code do not fully apply, or the requirements of this Maintenance Code are adequately satisfied by other means. The members of the Board shall be appointed by the Borough Council and shall be governed by the rules and regulations adopted by the Borough. Appeals of notices and orders; other than notices regarding imminent dangers, shall stay the enforcement of the notice and order until the appeal is heard by the Board.

SECTION 14 – Borough Denial of Permit and Approvals.

- A. Denial of Permit/Approval
1. Violation – The Borough or a Borough Council under Section 14.D may deny issuing to an applicant a Borough permit if the applicant owns real property in the Borough for which there exists on the real property a serious violation of State law or a code and the owner has taken no substantial steps to correct the violation within thirty (30) days following notification of the violation and for which fines or other penalties or a judgement to abate or correct were imposed by a magisterial district judge or municipal court, or a judgement at law or in equity was imposed by a court of common pleas.
 2. Stay or Supersedeas – No permit or approval shall be denied in the case of a property for which the judgement, order or decree is subject to a stay or supersedeas by an order of a court of competent jurisdiction or automatically allowed by statute or rule of court until the stay or supersedeas is lifted by the court or a higher court or the stay or supersedeas expires as otherwise provided by law. Where a stay or supersedeas is in effect, the property owner shall so advise the Borough seeking to deny a Borough permit.
 3. Exception to Denial – The Borough Council or Board of Appeals shall not deny a Borough permit to an applicant if

the Borough permit is necessary to correct a violation of State law or a code.

4. Notice Information – In issuing a denial of a permit based on an applicant’s failure to abate a serious violation of State law or code on real property that the applicant owns in this Commonwealth, the Borough or Board of Appeals shall indicate the street address, municipal corporation and county in which the property is located and the court and docket number for each parcel cited as a basis for the denial. The denial shall also state that the applicant may request a letter of compliance from the appropriate State agency or Borough, in a form specified by such entity as provided in this Section 14.

B. Proof of Compliance

1. Letter – All Borough permits denied in accord with this subsection may be withheld until applicant obtains a letter from the appropriate State agency or Borough indicating the following:
 - a. The property in question is now in State law and code compliance; or
 - b. The owner of the property has presented and the appropriate State agency or Borough has accepted a plan to begin remediation of a serious violation of State law or a code. Acceptance of the plan may be contingent on:
 - i. Beginning the remediation plan within no fewer than thirty (30) days following acceptance of the plan or sooner, mutually agreeable to both the property owner and the Borough.
 - ii. Completing the remediation plan within no fewer than ninety (90) days following commencement of the plan or sooner, if mutually agreeable to both the property owner and the Borough.
2. Failure to Act – In the event that the appropriate State agency or the Borough fails to issue a letter indicating State law or code compliance or noncompliance, as the case may be, within forty-five (45) days of request, the property in question shall be deemed to be in compliance for the purpose of this Section 14.
3. Form of Letter – The Applicable State agency or the Borough shall specify in the form in which the request for a compliance letter shall be made.
4. Letter Verification – Letters required under this section shall be verified by the appropriate Borough officials before issuing to the applicant a Borough permit.

C. Municipal Boards

1. Jurisdiction – Borough permits may be denied by a board in accordance with the requirements of Section 14 to the extent that approval of the Borough permit is within the jurisdiction of the board. For purposes of this section, “board” shall mean a zoning hearing board or other body granted jurisdiction to render decisions in accord with the Act of July 31, 1968 (P.L.805, No.247), known as Pennsylvania Municipalities Planning Code.
2. Borough Appearance – Borough Council may appear to present evidence that the applicant is subject to a denial by the Board of Appeals in accordance with this Section 14.
3. Non-owner Applicants – For purposes of this subsection, a Borough permit may only be denied to an applicant other than an owner if:
 - a. The applicant is acting under the direction, or with the permission, of an owner; and,
 - b. The owner owns real property satisfying the conditions of Section 14. C.3.a.

- D. Applicability of Other Laws – A denial of a permit shall be subject to the provisions of 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action) or the Pennsylvania Municipalities Planning Code, for denials subject to the act.

SECTION 15 – Conflict of Ordinances

In any case where a provision of this Maintenance Code is found to be in conflict with a provision, ordinance, regulation of the Borough or the provision which establishes the higher standard for the promotion and protection for the health and safety of the people

shall prevail.

SECTION 16 – Severability.

If a section subsection, sentence, clause or phrase of this Maintenance Code is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Maintenance Code.

SECTION 17 – Repealer.

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

SECTION 18 – Liability.

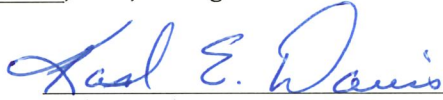
The Code Official or any subordinate charged with enforcement of this Maintenance Code, while acting for the Borough of Mount Pocono, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties, with the exception of conduct that is intentional, willful, outrageous or malicious.

Any suit initiated against any Code Official in the lawful discharge of duties and under the provisions of this Maintenance Code shall be defended by the legal representative of the Borough of Mount Pocono until the final determination of the proceedings. The Code Official or any subordinate shall not be liable for costs in an action, suite or proceeding that is instituted in pursuance of the provisions of this Maintenance Code; and any employee of the Borough, 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,

EFFECTIVE DATE

This Ordinance shall become effective immediately upon adoption.

Ordained and enacted this 8th day of August, 2016, Borough of Mount Pocono


Karl E. Davis

Attested by:


Lori Noonan, Borough Secretary


Frederick Courtright, Mayor