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PART 1
BUILDING CODE

§ 5-101. Adoption, Administration and Enforcement of Standards. [Ord. 1058, 6/1/2004, § 1]

The Pennsylvania Construction Code, 35 P.S. § 7210.101, et seq., as amended from time to time, and regulations promulgated thereunder by the Pennsylvania Department of Labor and Industry (the statute and regulations being collectively referenced in this Chapter as the "Code") are hereby adopted and incorporated herein by reference as the building code of the Borough of Mechanicsburg. The Borough hereby elects to administer and enforce the provisions of the Code, as amended from time to time.

§ 5-102. Savings Provisions. [Ord. 1058, 6/1/2004, § 2]

The following shall apply to the interpretation and enforcement of this Part:

- A. All building code ordinances or chapters, and portions of ordinances or chapters, 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.
- B. All building code ordinances or chapters, and portions or ordinances or chapters, 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.
- C. All relevant chapters, ordinances, regulations and policies of the Borough not governed by the Code shall remain in full force and effect.

§ 5-103. Prior Permits and Contracts. [Ord. 1058, 6/1/2004, § 3]

The provisions of this Part shall take effect upon enactment; provided, that they shall not apply to new buildings or renovations to existing buildings for which an application for a permit was made to the Borough before April 9, 2004, or for which a contract for design or construction was signed before April 9, 2004.

§ 5-104. Means of Administration and Enforcement. [Ord. 1058, 6/1/2004, § 4]

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

- 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 Code 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.

§ 5-105. Means of Appeal. [Ord. 1058, 6/1/2004, § 5]

In order to determine the suitability of alternate materials, methods of construction, appeals, variances, requests for extensions of time or to provide a reasonable interpretation of this Chapter, any person affected by a decision of the code official or a notice or order issued under this Chapter shall have the right to appeal to a Board of Appeals to be duly constituted and empowered from time to time by the Borough Council by any of the following means:

- A. By ordinance duly enacted by the Borough Council to constitute a Board of Appeals within the Borough to exercise the authority provided for such boards under the Code, which ordinance shall amend Chapter 1 [Administration and government] of the Code of Ordinances of the Borough of Mechanicsburg.
- B. By intergovernmental cooperation agreement and ordinance duly entered and enacted pursuant to the Pennsylvania Intergovernmental Cooperation Law, 53 P.S. § 2301, et seq., to jointly constitute and empower a Board of Appeals to exercise the authority provided for such boards under the Code.
- C. By ordinance duly enacted by the Borough Council to constitute a Board of Appeals by any other means authorized by the Code, as the same is amended from time to time.

§ 5-106. Fees. [Ord. 1058, 6/1/2004, § 6]

Fees assessable by the Borough for the administration and enforcement undertaken pursuant to this Part shall be paid in accordance with the Fee Resolution of the Borough of Mechanicsburg, as adopted by Borough Council, and as may from time to time be amended.

§ 5-107. Title. [Ord. 1058, 6/1/2004, § 7]

This Part shall be known and may be cited as the "Mechanicsburg Borough Building Code."

§ 5-108. Severability Clause.

The invalidity of any provision of this Part or of the Code, shall not invalidate other provisions thereof.

PART 2**UNIFORM CONSTRUCTION CODE (UCC) JOINT BOARD OF APPEALS****§ 5-201. Short Title. [Ord. 1059, 6/15/2004, § 1]**

This Part shall be known and may be cited as the "Pennsylvania Uniform Construction Code (UCC) Joint Board of Appeals Ordinance."

§ 5-202. Legislative Intent and Applicability. [Ord. 1059, 6/15/2004, § 2]

The background of this Part and the legislative intention of the Borough Council in enacting it are as follows:

- A. The Borough of Mechanicsburg is a Pennsylvania borough.
- B. The Act of December 19, 1996, P.L. 1158, No. 177, referred to as the Intergovernmental Cooperation Law, 53 Pa.C.S. § 2301, et seq., provides that a borough and other municipalities may jointly cooperate in the exercise or in the performance of their respective governmental functions, powers or responsibilities.
- C. The joint Board of Appeals is formed to decide appeals, variance requests and requests for extensions of time under the Pennsylvania Construction Code (UCC), 35 P.S. § 7210.101, et seq.
- D. The Borough Council of the Borough of Mechanicsburg, Cumberland County, Pennsylvania, determines that it is in the best interest of the public health, safety and welfare of its citizens to establish a joint Board of Appeals to hear matters arising under the UCC.

§ 5-203. Terms of the Joint Agreement. [Ord. 1059, 6/15/2004, § 3]

1. The conditions of membership, duration, purpose and objectives of the joint agreement, including the powers and scope of authority delegated therein, manner and extent of financing, organizational structure necessary to implement the Board of Appeals and manner in which personal property will be acquired, managed and disposed of are set forth in the Agreement, a copy of which is attached to this Part as Exhibit "A"¹ and incorporated herein as if set forth in full.
2. No real estate will be acquired, managed, licensed or disposed of under this Ordinance, excepting that the respective municipalities will make hearing rooms available to the Board of Appeals for the conduct of its business.
3. Each party has the power to enter into contracts for policies of group insurance and employee benefits, including social security, for all of their

¹Exhibit "A" is on file at the Borough Office.

employees, including those whose duties further the purposes of the Agreement.

§ 5-204. Authority to Enter Agreement. [Ord. 1059, 6/15/2004, § 4]

The President of the Borough Council of the Borough of Mechanicsburg is hereby authorized to execute all documents and perform all actions necessary to cause the Borough to enter the joint agreement.

§ 5-205. Amendment to Code. [Ord. 1059, 6/15/2004, § 5]

The publisher of the Code of Ordinances of the Borough of Mechanicsburg is hereby instructed to enter a reference to this Part in the Appendix of the Code in Section 5 [Governmental and Intergovernmental Affairs].

§ 5-206. Severability. [Ord. 1059, 6/15/2004, § 6]

1. If any sentence, clause, phrase or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, phrases, sections or parts of this Ordinance.
2. It is hereby declared as the intention of the Borough Council of the Borough of Mechanicsburg that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, phrase, section or part thereof not been included therein.

PART 3

PROPERTY MAINTENANCE CODE

§ 5-301. Adoption of Standards. [Ord. 1063, 11/1/2004, as amended by Ord. 1123, 8/16/2011; and by Ord. 1152, 11/17/2015]

There is hereby adopted in its entirety, by the Borough Council of the Borough of Mechanicsburg, that certain property maintenance code known as the "2009 International Property Maintenance Code," as published by the International Code Council, Inc., to include Appendix "A" (Boarding Standard) save and except such portions as are hereinafter deleted, modified, or amended. Copies of this Part 3 and the said International Property Maintenance Code are on file in the office of the Borough of Mechanicsburg. Any amendments or supplements by said publisher to the 2009 Code, after its initial publication, are not intended to be adopted hereby.

§ 5-302. When Effective; Applicability. [Ord. 1063, 11/1/2004, as amended by Ord. 1123, 8/16/2011]

The provisions of this Part 3 shall take effect upon enactment, provided that, where a permit has already been issued for work conforming to prior standards in the nature of alteration, addition, repair, removal, demolition or use of buildings or structures, such permit and standards as previously existing shall govern said work.

§ 5-303. Modifications to Standards. [Ord. 1063, 11/1/2004, as amended by Ord. 1123, 8/16/2011; and by Ord. 1152, 11/17/2015]

1. The following insertion is made as indicated in the 2009 International Property Maintenance Code:
 - A. Section 101.1, page 1, second line of section: "Borough of Mechanicsburg."
2. The following sections or provisions of the 2009 International Property Maintenance Code are hereby revised to read as follows:

SECTION 101 GENERAL

§ 101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy or maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and changes of occupancy in existing buildings shall comply with Chapter 5 (Code Enforcement) of the Code of Ordinances of the Borough of Mechanicsburg.

SECTION 103 CODE OFFICIAL

§ 103.1 General. The Borough Council shall have authority to create within its personnel roster the position of Mechanicsburg Code Enforcement Official and such other positions as it deems appropriate to have authority to enforce this Part, and each shall be known as the "code official."

§ 103.2 Appointment. The Mechanicsburg Code Enforcement Official, other code officials and any deputies shall serve at the pleasure of the Borough Manager.

§ 103.3 Deputies. The Borough Manager shall have the authority to appoint the Mechanicsburg Code Enforcement Official, such deputy code officials, other related technical officers, inspectors and other employees; subject however, to the creation of the positions on the personnel roster of the Borough by the Borough Council.

§ 103.5 Fees. The fees for activities and services performed under this Part shall be established by resolution of the Borough Council from time to time.

SECTION 106 VIOLATIONS

§ 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. 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.

§ 106.4 Violation penalties. Any person who shall violate a provision of this code shall, upon conviction thereof, be subject to a fine of not less than \$100 nor more than \$1,000 or imprisonment for a term not exceeding 30 days, or both, at the discretion of the court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

SECTION 107 NOTICES AND ORDERS

§ 107.1 Notice to owner and/or to person or persons responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner and/or the person or persons responsible therefor in the manner prescribed in §§ 107.2 and 107.3. Notices for condemnation procedures shall also comply with § 108.3.

SECTION 111 MEANS OF APPEAL

§ 111.1 Application for appeal. Any person directly affected by the decision of the code official or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the decision, notice or order is served. An application for appeal shall be based on a claim that the true intent of Mechanicsburg Property Maintenance Code or rules legally adopted thereunder have been incorrectly interpreted, the provisions of the said code do not fully apply, or the requirements of the said code are adequately satisfied by other means.

Membership of Board of Appeals. The Board of Appeals shall consist of three members who shall be appointed by the Borough Council and who are qualified by experience and training to pass on matters pertaining to property maintenance. One of the members of the Board of Appeals shall be a member of the Borough Council. The members shall serve staggered and overlapping terms. The code official shall be an ex-officio member but shall have no vote on any matter before the Board of Appeals.

Fees. Fees assessable by the Borough for the administration and enforcement of, or appeals undertaken pursuant to, this Part shall be paid in accordance with the Fee Resolution of the Borough of Mechanicsburg, as adopted by Borough Council, and as may from time to time be amended.

§ 112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed guilty of a violation of this code pursuant to the provisions of § 106 and shall be subject to the penalties therein prescribed.

SECTION 302 EXTERIOR PROPERTY AREAS

§ 302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of six inches and in full compliance with Part 1 (Grass, Weeds and Other Vegetation) of Chapter 10 (Health and Safety) of the Code of Ordinances of the Borough of Mechanicsburg. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, he, she or it shall be subject to prosecution. Upon failure to comply with the notice of violation, any duly authorized employee of the Borough or contractor hired by the Borough shall be authorized to enter upon the property and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

SECTION 304 EXTERIOR STRUCTURE

§ 304.14 Insect screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every swinging door shall have a self-closing device in good working condition.

SECTION 308 RUBBISH AND GARBAGE

§ 307.3.2 Containers. The owner of every dwelling and the operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

SECTION 602 HEATING FACILITIES

§ 602.2 Residential Occupancies. Dwellings shall be provided with heating facilities capable of maintaining a reasonable temperature in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

§ 602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitories or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a reasonable temperature in all habitable rooms, bathrooms, and toilet rooms.

§ 602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a reasonable temperature during the period the spaces are occupied.

§ 602.5 Room temperature measurement. The room temperatures shall be measured three feet (914 mm) above the floor near the center of the room and two feet (610mm), inward from the center of each exterior wall.

SECTION 704 FIRE PROTECTION SYSTEMS

§ 704.2.1. On the ceiling or wall outside of each separate sleeping area within five feet of bedrooms or sleeping areas.

3. The following sections of the 2009 International Property Maintenance Code are hereby deleted:
 - A. Section 111.2, Membership of board, through § 111.8, Stays of enforcement, inclusive, in their entirety.
 - B. Section 308.3.1, Garbage facilities, in its entirety.
 - C. Section 404.2, Minimum room widths, in its entirety.
 - D. Section 404.4.2, Access from bedrooms, in its entirety.
 - E. Section 404.4.3, Water closet accessibility, in its entirety.
 - F. Exception only of § 602.2, Residential occupancies.
 - G. Exception No. 2 only of § 602.3, Heat supply.

§ 5-304. Interpretation. [Ord. 1063, 11/1/2004, as amended by Ord. 1123, 8/16/2011]

Nothing in this Part 3 or in the 2009 International Property Maintenance Code hereby adopted shall be construed to affect 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 this Part 3 as previously existing, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Part 3.

§ 5-305. Title. [Ord. 1063, 11/1/2004, as amended by Ord. 1123, 8/16/2011]

This Part 3, together with the 2009 International Property Maintenance Code, shall be known and may be cited as the "Mechanicsburg Property Maintenance Code."

§ 5-306. Recording and Filing. [Ord. 1063, 11/1/2004, as amended by Ord. 1123, 8/16/2011]

In recording the ordinance adopting this Part 3, the Borough Secretary is directed to attach an accompanying notation stating where the full text of the code shall have been filed for public inspection.

§ 5-307. Severability. [Ord. 1063, 11/1/2004, as amended by Ord. 1123, 8/16/2011]

The invalidity of any section or provision of this Part 3, including the 2009 International Property Maintenance Code herein adopted, shall not invalidate other sections or provisions thereof.

PART 4

RESIDENTIAL RENTAL DWELLING UNIT INSPECTIONS**§ 5-401. Legislative Findings. [Ord. 1076, 1/17/2006]**

The Borough has determined that non-owner-occupied dwelling units are frequently maintained at a standard significantly less than owner-occupied dwelling units and that such failure to maintain those units can and frequently does result in dwelling units which are unsafe, unsanitary and, in many instances, not maintained to the minimum standards required by the various applicable codes in effect in the Borough of Mechanicsburg from time to time. Therefore, the Borough Council finds it to be desirable and in the public interest to enact the following provisions providing for the regular and systematic inspection of these properties to insure their continued compliance with applicable Borough codes.

§ 5-402. Short Title. [Ord. 1076, 1/17/2006]

This Part shall be known and may be cited as the "Borough of Mechanicsburg Residential Rental Dwelling Unit Inspection Ordinance."

§ 5-403. More Strict Standards to Apply. [Ord. 1076, 1/17/2006]

In the event any provision of this Part is inconsistent with the provisions of any other part or chapter of this code, other code or ordinance in effect in the Borough of Mechanicsburg, the provision applying the stricter standard shall apply.

§ 5-404. Definitions. [Ord. 1076, 1/17/2006]

As used in this Part, the following words shall have the following meanings, unless the context clearly indicates otherwise:

CERTIFICATE OF COMPLIANCE — The certificate issued by the code official which evidences inspection under the provisions of this Part.

CODE OFFICIAL — The person or persons authorized by the Borough to determine compliance with the provisions of this Part and to enforce the same. The code official shall include the Borough Zoning and/or Property Code Officer as appointed or employed from time to time.

CODES — Any applicable parts or chapters of this code, other codes or ordinances as adopted by the Borough from time to time, statutes and any rules and regulations promulgated thereunder.

DWELLING UNIT — A living area comprised of one or more rooms used for living, sleeping and habitation purposes and having its own kitchen and sanitation facilities, all arranged for occupancy by one or more persons.

EXTERIOR AREA — The outside facade of a building, including but not limited to any porch, yard, lawn, landscaping, sidewalks, setbacks, curbs, and

all open area contiguous to a building owned by the same person or persons or part of the same real estate parcel.

OWNER — Any person, agent, operator, firm, corporation, partnership, limited liability company, limited liability partnership, association, other entity, property management group, or fiduciary holding or having legal, equitable or other interest in any real property or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of such person's estate. When used in this Part in a clause proscribing any activity or imposing a penalty, the term as applied to corporations, partnerships, limited liability companies, limited liability partnerships, associations, other entities, or property management groups shall include each and every member, shareholder, partner (limited or general), director, officer and other individual having an interest in the entity, controlling or otherwise.

RESIDENTIAL RENTAL DWELLING UNIT — A dwelling unit not occupied by the owner thereof.

UNIT — A dwelling unit.

§ 5-405. Certificate of Compliance Required. [Ord. 1076, 1/17/2006]

No residential rental dwelling unit shall be occupied unless a certificate of compliance evidencing compliance with this Part has been issued by the code official. Issuance of a certificate of compliance shall represent compliance with the inspection requirements of this Part but shall not denote compliance with any other applicable part, chapter, other code, ordinance or statute. A certificate of compliance shall be valid for a period of 36 months. Every certificate of compliance shall be displayed in a conspicuous place in the interior of the unit. Following enactment of this Part and for the period expiring 36 months thereafter, no person shall be cited for failure to hold a current certificate of compliance unless, following inspection, he has allowed occupancy without obtaining a certificate of compliance.

§ 5-406. Inspections. [Ord. 1076, 1/17/2006]

No certificate of compliance shall be issued except as follows:

- A. **Inspections Required.** Prior to occupancy and prior to issuance of a renewal of a certificate of compliance, each residential rental dwelling unit shall be inspected by the code official or other authorized inspector, and for such purpose and for any reinspection required hereunder, the owner shall provide access to the code official or authorized inspector. A unit where inspection access is denied may not be issued a certificate of compliance until inspection access is provided.
- B. **Inspection to Determine Compliance.**² All inspections conducted under the authority of this Part shall determine compliance with this Part and all

²Editor's Note: A preinspection checklist is included as an attachment to this chapter.

- codes incorporated therein. This inspection shall include the exterior and interior of the premises.
- C. Search Warrants Authorized. Whenever permission for access to a residential rental dwelling unit cannot be obtained for any reason, or whenever the code official shall determine or have a reasonable belief that such unit is being occupied in violation of the provisions of this Part, he may seek to obtain a search warrant from a competent authority in accordance with applicable law.
- D. Exemption from Inspection.
- (1) In any instance where the code official shall lawfully issue a certificate of occupancy for a rental residential dwelling unit as a result of new construction or alterations, he shall concurrently issue a certificate of compliance.
 - (2) In any instance where proper evidence is submitted to the code official to demonstrate compliance with a current inspection by a Federal or a State authority pursuant to a maintenance standard equivalent or more strict than the provisions required under this Part, the code official shall issue a certificate of compliance dated as of the date of such inspection.
- E. Independent Inspectors. Any owner shall have the right to employ an independent inspector who is currently approved by the Borough as a qualified and certified inspector under the provisions of Part 1, Building Code, of this chapter, and as to any residential rental dwelling unit inspected and certified by said inspector as being in compliance with the provisions of this Part, the code official shall issue a certificate of compliance dated as of said inspection. In this respect, the Borough shall maintain a list of certified inspectors from which owners may select.
- F. Reservation of Right of Borough Inspection. Notwithstanding the provisions of Subsections D and E above, the Borough reserves the right at any time to inspect any premises to verify compliance with the provisions of this Part of any independent or government agency inspection, which Borough inspection shall be made without charge. If, as a result of such Borough inspection, violations of the provisions of this Part are determined, additional inspections necessitated by such noncompliance shall be at the expense of the owner.
- G. The inspections required by this Part shall be applicable to any hotel or motel facility which permits occupancy on a weekly or monthly basis. No inspection shall be required of hotels or motels principally providing overnight lodging.

§ 5-407. Notice of violations. [Ord. 1076, 1/17/2006]

If the inspection of a residential rental dwelling unit discloses noncompliance with the provisions of this Part, the code official shall issue a notice of violation. The notice of violation shall set forth the following:

- A. The street address or appropriate description of the subject property;
- B. The date of the inspection;
- C. The identity of the inspector;
- D. A list of the code deficiencies;
- E. The number of days in which the owner and/or occupant is to accomplish repairs and/or otherwise cure the violation; and
- F. Notice that if the conditions are not repaired or the premises are not otherwise brought into compliance with the provisions of this Part within the time specified, the occupant and/or the owner may be prosecuted and/or the residential rental dwelling unit may be placarded as unfit for human occupancy, in which event the occupants shall promptly vacate the premises. Only the code official shall have authority to institute prosecutions under the provisions of this Part.

§ 5-408. Fees. [Ord. 1076, 1/17/2006]

Fees for the administration of this Part shall be established by resolution of the Borough Council from time to time.³ Authorized fees shall include, but not be limited to, issuance of certificates of compliance, renewal of certificates of compliance, inspections, reinspections and review of independent inspection reports.

§ 5-409. Municipal Liability. [Ord. 1076, 1/17/2006]

The issuance of a certificate of compliance shall not be deemed, nor construed as, a representation, guaranty or warranty of any kind by the Borough, or its officials, agents or employees, and shall create no liability upon the Borough, its officials, agents or employees.

§ 5-410. Appeals. [Ord. 1076, 1/17/2006]

Any person affected by a decision of the code official or a notice or order issued under this Part shall have the right to appeal to the Board of Appeals duly constituted and empowered from time to time by the Borough Council pursuant to § 5-105, Means of Appeal, of this Chapter (Code Enforcement) of the Code of Ordinances of the Borough of Mechanicsburg, which establishes a Board of Appeals. An application for appeal shall be based on a claim that the true intent of this Part or the rules legally adopted thereunder have been incorrectly interpreted, the

³Editor's Note: See the Fee Resolution at the beginning of this Code.

provisions of this Part do not fully apply, or the requirements of this Part are adequately satisfied by other means.

§ 5-411. No Enforcement Limitation. [Ord. 1076, 1/17/2006]

The issuance of a certificate of compliance shall not preclude or otherwise affect the authority of the code official from the enforcement of this or any other part of this code, or applicable statute, ordinance, rule or regulation at any time.

§ 5-412. Violations and penalties. [Ord. 1076, 1/17/2006]

Any person who shall violate any provision of this Part or shall fail to comply with any requirements thereof shall be guilty of a summary offense and shall, upon conviction thereof, be sentenced to pay a fine of not less than \$100 nor more than \$1,000, plus costs of prosecution; in default of payment of said fine and costs, said person may be subject to imprisonment of up to 30 days. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of this Part shall be paid over to the Borough.

§ 5-413. Borough Remedies. [Ord. 1076, 1/17/2006]

When there is or appears to be a violation of the provisions of this Part, the code official may institute in the name of the Borough any appropriate action or proceeding, at law or in equity, to prevent, restrain, correct or abate such violation or nuisance.

PART 5

ABANDONED PROPERTY MAINTENANCE AND REGISTRATION**§ 5-501. Purpose and Intent. [Ord. 1153, 11/17/2015]**

1. It is the purpose and intent of the Borough to establish a process to address the amount of deteriorating real property located within the Borough, which includes property, whether vacant or occupied, about which a public notice of default has been filed, is in foreclosure, or where ownership has been transferred to lender or mortgagee by any legal method. It is the Borough's further intent to specifically establish an abandoned property program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.
2. For the protection and promotion of the public health, safety and welfare of the citizens of the Borough, the Borough Council hereby establishes the rights and obligations of owners, mortgagees and property management companies of abandoned properties within the Borough and encourages owners, mortgagees and property management companies to maintain and secure such property through registration and compliance with this Part.

§ 5-502. Definitions. [Ord. 1153, 11/17/2015]

The following words, terms and phrases, when used in these sections of this Part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ABANDONED REAL PROPERTY — Real property that meets any of the following criteria:

- A. Any property that is vacated or occupied and is subject to a mortgage under a notice of default or notice of mortgagee's sale or a pending tax claim sale, or vacated properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure, and any properties transferred under a deed in lieu of foreclosure or sale.
- B. Any property (excluding government-owned buildings) which is:
 - (1) Unoccupied and unsecured; or
 - (2) Unoccupied and secured by other than normal means; or
 - (3) Unoccupied and an unsafe building as determined by the enforcement officer; or
 - (4) Unoccupied and having utilities disconnected; or
 - (5) Unoccupied and has Property Maintenance or Building Code violations; or
 - (6) Illegally occupied, which shall include loitering and vagrancy; or

- (7) Unoccupied for a period of time over 60 days and having an existing code violation issued by the Building Department; or
- (8) Unoccupied with a mortgage status of abandonment (i.e., deceased or foreclosed); or
- (9) Unoccupied and abandoned by the property owner; or
- (10) Unoccupied and advertised for sale by owner for a period exceeding 120 calendar days; or
- (11) Unoccupied and listed for sale by a Pennsylvania licensed realtor for a period exceeding 12 months.

BOROUGH — The Borough of Mechanicsburg, Cumberland County, Pennsylvania.

ENFORCEMENT OFFICER — Any building official, zoning inspector, code enforcement officer, health officer, fire inspector or building inspector employed by the Borough.

EVIDENCE OF ABANDONMENT — Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is abandoned. Such conditions may include, but not be limited to, overgrown or dead vegetation, accumulation of abandoned personal property, as defined herein, statements by neighbors, passersby, delivery agents or government agents, among other evidence that the property is vacated.

FORECLOSURE — The process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

MORTGAGE — A conveyance of title to property that is given as security for the payment of debt or the performance of a duty and that will become void upon payment or performance according to the stipulated terms.

MORTGAGEE — One to who property is mortgaged or the mortgage creditor or lender.

MORTGAGEE IN POSSESSION — A mortgagee who takes control of mortgaged land by agreement with the mortgagor, usually upon default of the loan secured by the mortgage.

OWNER — Any person, agent, operator, firm, partnership, legal entity, or corporation having a legal or equitable interest in real property; or recorded in the official records of the commonwealth, county or Borough as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the trustee, executor or administrator of the estate of such person if authorized by law to take

possession of real property, or if ordered or authorized to take possession of real property by a court.

PERSON — An individual, corporation, partnership or any other group acting as a unit.

PROPERTY MANAGEMENT COMPANY — A property manager, property maintenance company or similar entity or individual responsible for the maintenance of abandoned real property.

PUBLIC NUISANCE — Abandoned property in the Borough of Mechanicsburg as further defined in this chapter herein shall constitute a public nuisance.

UNOCCUPIED — Without inhabitants; deserted.

§ 5-503. Applicability. [Ord. 1153, 11/17/2015]

1. Immediately after the effective date of this Part, and continuing thereafter, the enforcement officer shall evaluate all buildings in the Borough believed to be unoccupied on the effective date of this Part and shall make a determination for each as to whether the building is abandoned, a public nuisance and potentially a public safety hazard as defined by § 5-502 of the Mechanicsburg Borough Codified Ordinances. The determination shall be in writing and shall state the factual basis for the determination. The enforcement officer shall, within 10 days of determining that a building is abandoned, send written notice to the last owner of record on the most recent Cumberland County tax roll. The notice will include the factual findings supporting the determination that the property is abandoned. Said notice of determination shall be sent to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or designated agent is unknown and cannot be ascertained by the enforcement officer in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. Any appeals from the determination of the Codes Department shall be made within 10 days before the Property Maintenance Code Appeals Board as set forth in § 111.1 of § 503, Subsection 2, of the Borough's Codified Ordinances, upon the deposit of an appropriate fee. In the absence of such an appeal, the determination of the Codes Department shall be final.
2. The written notice sent to the owner or the owner's agent shall describe the conditions that render the property abandoned, and shall require the owner's registration within 20 days of the receipt of such notice. The Borough may also post notices on the Borough's website to provide additional notice to the public.

§ 5-504. Registration of Abandoned Real Property. [Ord. 1153, 11/17/2015]

1. If the property is found to be abandoned or shows evidence of abandonment, it shall be deemed abandoned real property and the mortgagee shall, within 10 of days of the inspection, register the property with the Borough, or its designee, on forms provided by the Borough or through a website designated by the Borough.
2. Registration pursuant to this section shall contain the name of the mortgagee and the servicer, the direct mailing address of both parties, a direct contact name and telephone number for both parties, a facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four-hour contact phone number of the property management company responsible for the security and maintenance of the property.
3. This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.
4. A registration fee per property shall accompany the registration form(s).
5. Properties subject to this section shall remain under the registration requirement and security and maintenance standards of this section as long as they remain abandoned as defined herein.
6. Any person, legal entity, or corporation that has registered a property under this section must report any change of information contained in the registration in writing within 10 days of the change to the enforcement officer or his designee.

§ 5-505. Exception From Registration Requirement. [Ord. 1153, 11/17/2015]

1. A building under active construction/renovation and having a valid building permit(s) at the time of initial inspection shall be exempt from registration until the expiration of the longest-running, currently active building permit.
2. A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 60 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Codes and Zoning Department. This request shall include the names and addresses of the owner or owners, and a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.
3. A building that has been granted an exemption pursuant hereto, whereby an owner of an abandoned building files a written application with the Codes and Zoning Officer who shall timely consider same. In determining whether

a request for exemption should be granted, the Codes and Zoning Officer shall consider the following: the applicant's prior record as it pertains to the Borough's Building Code, or Property Maintenance Code, violations; the number of other vacant properties the applicant currently has within the Borough; and the length of time that the abandoned building for which the exception is sought has been vacated or abandoned.

§ 5-506. Registration Fees. [Ord. 1153, 11/17/2015]

Registration fees required for this chapter for the initial 12 months of abandonment will be set at \$250. The fees for the second year will be \$500. The fees for the third year will be \$1,000 per year, and any subsequent year will be \$2,000. The registration fees may be amended from time to time by resolution of the Borough Council.

§ 5-507. Maintenance Requirements. [Ord. 1153, 11/17/2015]

1. All exterior property shall be maintained in compliance to Chapter 5 of Mechanicsburg Borough's Codified Ordinances (Property Maintenance Code).

§ 5-508. Security Requirements. [Ord. 1153, 11/17/2015]

1. Properties subject to this Part shall be maintained in a secure manner so as not to be accessible to unauthorized persons or to rodents or pests.
2. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows shall be secured by reglazing of the window.
3. If the mortgagee or property owner of record is unable or unwilling to perform maintenance and inspections itself, the owner of the property shall contract with a property management company who shall perform biweekly inspections to verify compliance with the requirements of this section, and any other applicable laws.
4. Failure of the mortgagee or property owner of record to properly maintain the property will result in a violation of the Borough Ordinances and will result in the issuance of a citation. Pursuant to a finding and determination by the Borough's Code Enforcement Office, the Borough may take the necessary action to ensure compliance with this Part.

§ 5-509. Immunity of Enforcement Officer. [Ord. 1153, 11/17/2015]

Any enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this Part.

§ 5-510. Penalties and Remedies. [Ord. 1153, 11/17/2015]

1. It shall be a violation of this Part to commit or permit any other person to commit any of the following acts:
 - A. To fail to register any property as required by § 504 of this Part.
 - B. To fail to pay a registration fee in the amount pursuant to § 506 of this Part.
 - C. To fail to maintain and secure properties pursuant to the provisions of Chapter 5 of the Mechanicsburg Borough Codified Ordinances.
 - D. To place any false information on or to omit relevant information from an application for registration provided pursuant to this Part.
 - E. To fail or refuse to comply with any other provision of this Part.
2. Penalties and Remedies.
 - A. Any person who shall violate any of the provisions of this Part shall be guilty of a summary offense and, upon conviction thereof before a Magisterial District Judge, shall be sentenced to pay a fine of not less than \$500 and the cost of prosecution for each and every offense, and in default of payment thereof, shall be sentenced to imprisonment in Cumberland County Prison for not more than 30 days. Each violation and each day of violation shall constitute a separate offense.
 - B. In addition to prosecution of the persons or legal entities violating this Part, a Borough enforcement officer, Borough Solicitor, or any other duly authorized agent of the Borough may bring such civil or equitable actions, seeking civil or equitable remedies, in any appropriate court of record of the Commonwealth of Pennsylvania, against any persons and/or property, real or personal, to effect the provisions of this Part. The remedies and procedures of this Part are not intended to supplant or replace, to any degree, the remedies provided to the Borough in the Borough's International Property Maintenance Code, Uniform Construction Code, Zoning Ordinance, or any other Borough code, ordinance or resolution.
 - C. These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the Borough above and beyond any other state, county or local provisions for same.

§ 5-511. Appeals. [Ord. 1153, 11/17/2015]

1. Any person aggrieved by the action of the Borough or its designee relevant to the provisions of this Part may appeal to the Borough's Property Maintenance Board of Appeals within 30 days of that action.
2. Any person aggrieved by any decision of the Borough or the Borough's Property Maintenance Board of Appeals relevant to the provisions of this Part may appeal to the Cumberland County Court of Common Pleas within 30 days of the decision.

