

CHAPTER 10

HEALTH AND SAFETY

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Part 1

Property Maintenance

§101. Short Title. This Part shall be known and cited as the "Borough of Millheim Property Maintenance Ordinance." (Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§102. Preface. Recognizing the need within the Borough to establish certain minimum health and safety requirements for those buildings, structures, or properties which are used or associated with human occupancy; this Part hereby establishes standards which the Borough Council considers to be fair and effective in meeting those minimum requirements. (Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§103. Authority. This Part, and the objectives leading to its enactment, are authorized by the following provisions of the Borough Code, to wit:

53 PS §46202(6)

(Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§104. Definitions.

BUILDING - a roofed structure, enclosed by one or more walls, for the shelter, housing, storage or enclosure of persons, goods, materials, equipment or animals.

COURT - an open and unoccupied space on a lot enclosed on at least three (3) sides by the walls of a building.

GARBAGE - putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION - the presence of insects, rodents, vermin and/or other pests.

LOT - plot, tracts, premises or parcel of land, with or without improvements thereto.

OWNER - any person or persons, jointly or severally, firm, corporation or other entity which, either by conveyance or inheritance or otherwise, is vested with the title to a lot and/or improvements thereto or who retains the exclusive control of such a lot and/or improvements thereto or who retains the exclusive control of such lot and/or improvement in his capacity as a legal representative, such as an administrator, trustee, executor, etc.

REFUSE - all putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, dead animals and market and industrial wastes.

UNOCCUPIED HAZARD - any building, or part thereof, or manmade structure, which remains unoccupied for a period of more than six (6) months, with either doors, windows, or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six (6) months.

YARD - any open space on the same lot with a building and, for the most part unobstructed from the ground up.

(Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§105. Application. The provisions of this Part shall supplement local laws, ordinances or regulations existing in the Borough or those of the Commonwealth of Pennsylvania. Where a provision of this Part is found to be in conflict with any provision of a local law, ordinance, code or regulations or those of the Commonwealth of Pennsylvania, the provisions which is more restrictive or which establishes the higher standard shall prevail. (Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§106. Grass, Weeds and Other Vegetation a Nuisance Under Certain Conditions. No person, firm or corporation owning or occupying any property within the Borough shall permit any grass or weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purposes, to grow or remain upon such premises so as to exceed a height of six inches (6") or to throw any unpleasant or noxious odor or to conceal any filthy deposit or to create or produce pollen. Any grass, weeds or vegetation growing on any premises in the Borough in violation of any of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough. (Ord. 131, 4/3/1978, §3)

§107. Responsibility for Removing, Trimming or Cutting Grass, Weeds and Other Vegetation. The owner of any premises as to vacant premises or premises occupied by the owner, and the occupant thereof in case of premises occupied by other than the owner thereof, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of the provisions of this Part. (Ord. 131, 4/3/1978, §4)

§108. Notice to Remove, Spray, Trim or Cut; Authority for Borough to do Work and Collect Cost and Additional Amount. The Borough Council or any officer or employee of the Borough designated thereby for the purpose, is hereby authorized to give notice, by personal service or by United States mail to the owner or occupant as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of §110 of this Part directing and requiring such occupant to remove, spray, trim or cut such grass, weeds or vegetation, so as to conform to the requirements of this Part within five (5) days after issuance of such notice. In case any person, firm or corporation shall neglect, fail or

refuse to comply with such notice, within the period of time stated therein, the Borough authorities may remove, spray, trim or cut such grass, weeds or vegetation, and the cost thereof, together with any additional penalty authorized by the law, may be collected by the Borough from such person, firm or corporation, in the manner provided by law. (Ord. 131, 4/3/1978, §5)

§109. Buildings and Structures.

1. No owner of any building or structure shall fail to take steps and perform such maintenance thereto, as may be required from time to time, to ensure the property is safe, sound, sanitary and secure and does not present a health and/or safety hazard to surrounding properties and to the general populace.

2. No owner of any unoccupied building or structure shall fail to take such steps as may be required to insure that these are securely closed so as to prohibit and deter entry thereto and to insure that no health and/or safety hazard, or threat thereof, is precipitated due to a lack of maintenance or due to neglect.

3. Owners of any and all unoccupied buildings and/or structures which, through neglect, have deteriorated to the point of being classified as unoccupied hazards, and therefore constitute a severe health and/or safety hazard, shall, upon direction of the Borough Council, remove, or cause the removal of, the building and/or structure.

(Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§110<sup>\*</sup>. Abandoned Buildings and Conditions of Disrepair Constituting a Nuisance. No person, firm or corporation owning or occupying any property within the Borough shall permit any abandoned building or other structure to become in such a state of disrepair as to be detrimental to the health, safety and welfare of the residents of the Borough to allow any materials to accumulate on said property which might be unsafe to the residents of the Borough. Any abandoned buildings or other structure or materials accumulated on any premises in the Borough in violation of the provisions of this section constituting an unsafe and unhealthy condition are declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough. Any such nuisance so determined by the Borough shall be abated as provided in §116 of this Part and/or prosecuted under §117 of this Part as hereinafter provided. (Ord. 131, 4/3/1978, §7)

§111. Unlawful to Accumulate Refuse on Private Property. From after the effective date of this Part, for reasons of health and sanitation, it shall be unlawful for any person to accumulate or permit to accumulate upon his private property in the Borough of Millheim, garbage, refuse, ruffraff, junkcars, debris and any other type of combustible or incombustible refuse or rubbish. Any accumulation of said garbage, refuse, ruffraff, junkcars, debris

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\* Chapter note: Sections 110 and 111 correspond to section 7 and 6 respectively of Ordinance 131; there placement and reordering was for maintaining continuity in the new ordinances.

and other type of combustible or incombustible refuse or rubbish on any premises in the Borough of Millheim, in violation of the provisions of this section is hereby determined to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the residents of the Borough. Said nuisance shall be abated or removed as set forth in §116 of this Part. (Ord. 131, 4/3/1978, §6)

§112. Yards, Open Lots, Parking Areas. No person shall permit:

1. Fences and/or minor structures to be constructed and maintained so as to present a safety or health hazard to persons and/or property;
2. the development of accumulation of hazards, rodent harborage and/or infestation upon yards, courts, lots;
3. objectionable materials to accumulate and to be blown about the surrounding neighborhood;
4. wells, cesspools, cisterns, sedimentation ponds, stormwater management impoundment ponds and/or ponds of a similar nature to remain open without adequate fencing or barricades to prevent access thereto by the general public;
5. the accumulation of heavy undergrowth and/or vegetation which would impair the health and/or safety of the neighborhood; nor shall they permit any trees, plants or shrubbery, or any portion thereof, to grow on their property and which constitute a safety hazard to pedestrian and/or vehicular traffic.

(Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§113. Infestation, Prevention and Correction.

1. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation.
2. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
3. Where there exists rodent and vermin infestation, corrective measures shall be undertaken by the property owner and/or occupant to alleviate the existing problem(s), to include screening, extermination and/or garbage and refuse control. Methods employed for extermination shall conform with generally accepted practices.

(Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§114. Miscellaneous Provisions. No person shall permit:

1. Roof, surface and/or sanitary drainage to create a safety and/or health hazard to persons and/or property by reason of inadequate and/or improper construction, or maintenance or manner of discharge;
2. roof gutters, drains, or any other system designed and constructed to transport stormwater, to be discharged into any sanitary sewage system and/or any part thereof;

3. any refrigerator, freezer and/or other similar storage chest to be discarded, abandoned or stored in any place or location which is accessible to the general public without first completely removing any and all locking devices and/or doors.

(Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§115. Responsibilities of Occupants. Any occupant of a premises shall be responsible for compliance with the provisions of this Part with respect to the maintenance of that part of the premises which he occupies and/or controls in a safe, sound and/or sanitary condition pursuant to the terms of the contract/agreement under which he exercises occupancy and/or control thereof. (Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§116. Responsibilities of Owners.

1. Owner of premises shall comply with the provisions of this Part as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

2. In instances where an occupant is responsible, or shares responsibility with an owner, for the existence of one (1) or more violations of this Part, said occupant shall be deemed responsible and taken to be the owner within the true intent and meaning of this Part.

(Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§117. Notice of Violation. Upon failure to comply with any terms or conditions of this Part, the owner and/or occupant shall be notified by the Borough Council or its authorized representative, by certified mail, or through personal service, of said violation or violations. Such notification shall be in writing and shall identify the premises and shall cite the specific violation or violations; shall direct the owner and/or occupant to correct the deficiency and/or deficiencies within a specified period from the receipt of such notice and shall inform the owner and/or occupant of the fines and penalties which would accrue for the failure to comply. The notice shall also advise that, in lieu of, or in addition to, fines and penalties, and subsequent to the time period for voluntary compliance, the Borough may itself correct the deficiencies or contract for the correction thereof and assess the cost thereof as a lien against the premises and/or recover the expenses so incurred in a manner as prescribed by law. In the event the owner and/or occupant cannot be ascertained or is not able to be located, a notice, containing the above required information in summary form, shall be published once in each of two (2) consecutive weeks in a newspaper of general circulation in the Borough, advising of the existence of the violation and requiring correction thereof, in accordance with the terms and conditions herein established; detailed notice thereof shall be posted on the subject premises and at the Borough office. (Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§118. Compliance. For violations of §§109 through 117, the owner and/or occupant shall have thirty (30) days from the receipt of a notice of violation or, alternatively, from the date of the second appearance of the published notice of violation, to correct any and all stipulated deficiencies. Extensions to the thirty (30) day period in which deficiencies must be corrected may be granted by the Borough upon demonstration by the owner and/or occupant that such an extension thereto is warranted and justified. Failure to comply shall constitute a violation of this Part. A conviction of an owner and/or occupant shall not ban further prosecutions for noncompliance with this Part subsequent to such conviction. (Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§119. Penalty. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day that a violation of this Part exists beyond the thirty (30) day voluntary compliance period shall constitute a separate offense. (Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984; as amended by Ord. 189, 6/1/1999)

§120. Owners Severally Responsible. If the premises are owned by more than one (1) owner, each owner shall severally be subject to prosecution for the violation of this Part. (Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

§121. Inspection. The Borough Council may, or may cause, through an authorized representative of the Borough, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Borough for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner, or his agent, to secure access thereof. (Ord. 131, 4/3/1978; as revised by Ord. 151, 11/12/1984)

Part 2

Outdoor Fuel Burning Appliances

§201. Definitions and Interpretations. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

BOROUGH - the Borough of Millheim, Centre County, Pennsylvania.

OUTDOOR FUEL BURNING APPLIANCE - a device constructed to burn oil, wood, coal or other fuels manufactured for placement outdoors for the purpose of heating a structure and/or the heating of domestic water.

PERSON - an individual, firm, corporation or any other legal entity.

(Ord. 217, 11/9/2004, §1)

§202. Purposes. The purpose of this Part is to promote the general health, welfare and safety of the residents of the Borough of Millheim and the general public. (Ord. 217, 11/9/2004, §2)

§203. Prohibition. Outdoor fuel burning appliances are hereby prohibited within the Borough of Millheim except as otherwise provided in this Part. (Ord. 217, 11/9/2004, §3)

§204. Grandfather Clause. This Part shall not be construed to be retroactive and shall not require the removal of any outdoor fuel burning appliance existing on any property within the Borough of Millheim at the effective date of this Part. Provided, however, that the use of all outdoor fuel burning appliances in existence in the Borough of Millheim on the effective date of this Part shall be prohibited from May 1 through September 1 of each calendar year and shall have or must have erected a flue or chimney which has a minimum termination height of two (2) feet higher than the eave line of the structure upon which the appliance is located. In the event an outdoor fuel burning appliance is more than fifty (50) percent torn down, physically deteriorated or decayed, any repair, remodeling, rebuilding or restoration of said appliance shall be prohibited by this Part and shall constitute a violation hereof. (Ord. 217, 11/9/2004, §4)

§205. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof before the District Justice, be sentenced to a pay a fine of not more than three hundred dollars (\$300.00) plus court costs and in default of payment to imprisonment not to exceed 30 days. Every day that a violation of this Part continues shall constitute a separate offense. (Ord. 217, 11/9/2004, §5)

