

Upon motion by Richard P. Figaski, seconded by Brian P. McGrath, the following Ordinance was duly enacted, 2 voting in favor of enactment, 0 voting against enactment.

ORDINANCE NO. 2013-14

An Ordinance of the Township of Millcreek adopting a Property Maintenance Code of Millcreek Township; establishing standards for existing residential, industrial, commercial and other buildings and structures; providing for enforcement and administration of regulations and for penalties for violation; and containing severability and repealor clauses.

WHEREAS, Millcreek Township by ordinance has provided for adoption and enforcement of the Pennsylvania Construction Code Act which establishes standards for construction of new structures and buildings; and

WHEREAS, the Township, through various ordinances, including but not limited to the Zoning Ordinance, the Nuisance Ordinance and the Fire Code Ordinance, has established and enforced regulations governing maintenance of existing structures and buildings; and

WHEREAS, the Board of Supervisors has determined that growth of the Township and increasing age of some of its structures and buildings calls for a more coordinated regulation of existing structures and buildings; and

WHEREAS, while administration and enforcement of a Property Maintenance Code will involve additional costs and administrative responsibilities, the Board of Supervisors has determined that measures to ensure that existing structures meet minimal maintenance standards can result in improved maintenance and reduce the likelihood of substantial deterioration which would involve greater financial costs and be detrimental to the public safety and general welfare.

IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Millcreek, Erie County, Pennsylvania as follows:

1.01. Adoption of International Code. The International Property Maintenance Code, 2012 edition (the "IPMC"), as may in the future be amended, is hereby adopted as the Property Maintenance Code of Millcreek Township, subject to the following amendments and revisions:

(1) Section 103 of the IPMC shall not apply, said Section to provide as follows:

103.1 General. The Board of Supervisors shall have authority to determine whether to employ or retain an entity or one or more persons to administer and enforce the regulations of this Code. The entity retained or the person in charge of the office or department shall be known as the code official.

103.2 Appointment. The code official shall be appointed by the Board of Supervisors or be that retained entity or person in charge of a retained entity as approved by the Board of Supervisors.

103.3 Deputies. In accordance with the prescribed procedures of the Township, the Board of Supervisors shall employ one or more deputies if this Code is enforced by a department of the Township or, if the Township retains an entity to enforce this Code, said entity shall appoint such deputy(ies) as are deemed appropriate. Deputies shall have such powers as are delegated by the code official.

103.4 Liability. The code official, member of the board of appeals and other persons employed or retained to enforce this Code, while acting for Millcreek Township in good faith and without malice or recklessness in the discharge of the duties required by this Code or other pertinent law or ordinance, 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 or by reason of an act or omission in the discharge of official duties.

103.5 Fees. The fees for activities and services performed by persons and or entities in carrying out responsibilities under this Code shall be as set forth on such schedule as may be adopted by the Board of Supervisors and amended from time to time.

(2) Section 104.3 (Right of Entry) is amended to add as a final sentence thereof the following: "Such recourse shall be pursued only with authorization by the Board of Supervisors and then only in cases posing a serious threat to fire or other safety or issues relating to number of residents in a dwelling."

(3) Section 106.3 (Prosecution of violation) is amended to read as follows:

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 1.07 shall be deemed guilty of a summary criminal offense as determined by Section 1601(c.1)(2) of the Second Class Township Code, and the violation shall be deemed a strict liability offense. If a 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 an 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 Township on such *premises* and after notice shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(4) Section 106.4 (Violation Penalties) is amended to read as follows:

106.4 Penalties for Violation. A fine in an amount not less than \$250.00 and not more than \$1,000.00 shall be imposed upon any person found by a Magisterial District Judge having jurisdiction to have violated any provision of this Code. The fine for a third or greater violation shall be in an amount not less than \$500.00 and not more than \$1,000.00.

(5) Section 106.5 (Abatement of Violation) is amended to read as follows:

106.5 Abatement of violation. The imposition of fines for violation shall not preclude the Township from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of a building, structure or premises. See Section 106.3 re. charges for costs incurred in abating a violation.

(6) A new Section, numbered 106.6 and entitled "Definition of Violations, shall be added, providing as follows:

106.6 Definition of Violations. Each violation shall constitute a separate violation and be subject to a separate penalty. Each day a violation occurs and/or continues shall constitute a separate violation.

(7) Section 107.3 is amended to add a fourth subsection, providing as follows:

107.3 Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified mail, return receipt requested, to the last known address;
3. If the notice is returned showing that the letter was not delivered, a copy of the notice shall be posted in a conspicuous place in or about the structure affected by such notice and notice shall be sent to the last known address by U.S. first class mail; or
4. If the property owner or an encumbrance holder cannot be found, a notice or order shall be served by posting a copy thereof on the main entrance of the building and published one time in two separate publications authorized to provide service by publication.

(8) Section 111.2 is amended to add two final sentences, to provide as follows:

111.2. Membership of board. The board of appeals shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The Board of Supervisors shall have sole authority to appoint persons to membership on the board. The Board of Supervisors shall have authority, in its discretion, to appoint two or more panels of said board, each of which shall have a minimum of three members, if deemed necessary or appropriate to accommodate the volume, complexity or timing of appeals.

(9) Section 111.2.5 is amended, to provide that compensation of members shall be as determined by resolution of the Board of Supervisors.

(10) Section 111.3 is amended, to provide that the board or a designated panel of the board shall meet upon notice by the chair.

(11) Section 111.4 is amended to provide that a quorum shall consist of a minimum of two-thirds of the board's or panel's membership.

(12) Section 111.5 is amended, to provide that a request for postponement may be made when a quorum of the Board or, if applicable, the designated panel of the board is not present to hear an appeal.

(13) Section 111.6 is amended to note that said provisions apply to the board or a designated panel of the board.

(14) Section 111.6.1 is amended to provide that decisions shall be in writing.

(15) Section 112.4 (Failure to Comply) is amended, to provide that the minimum fine for failure to comply with a stop-work order shall be \$750.00 and that the maximum fine therefor shall be not more than \$1,000.00.

(16) Section 1.17 is deleted and shall be replaced by Section 1.18.

(17) Section 201.3 is hereby amended to provide as follows:

201.3 Terms defined in other codes and ordinances. Where terms are not defined in this Code and are defined in any International Code comprising the adopted Pennsylvania Construction Code or in applicable ordinances of the Township, including but not limited to the Zoning Ordinance, the Nuisance Ordinance, the Subdivision and Land Development Ordinance and the Municipal Waste and Recycling Ordinance, such terms shall have the meanings ascribed to them as stated in such codes or ordinances.

(18) Chapter 2 is amended by adding a new Section 201.6, to be entitled "Conflict with Other Ordinances," and providing as follows:

201.6 Conflict with Other Ordinances. Where a term is defined in the Code and also in a Township ordinance and there is conflict between them, the definition in the Township ordinance shall control. Examples include but are not limited to "inoperable motor vehicle" (see non-operating vehicle in Zoning Ordinance).

(19) Section 202 (Definitions) is amended so as to provide the following definitions:

INOPERABLE MOTOR VEHICLE shall mean a vehicle which does not have the current registration plate or the current valid inspection sticker.

LEAF WASTE. Includes leaves, garden residue, shrubbery, tree trimmings and similar material, but not including grass clippings.

MUNICIPAL WASTE. Materials including garbage, rubbish, solid waste and other materials but not including recyclable materials or leaf waste.

RECYCLABLE MATERIALS. Materials including glass, aluminum, steel and bi-metallic cans, recyclable plastics, newspapers, magazines, corrugated cardboard, mixed paper and cardboard and other materials designated by Millcreek as recyclable materials.

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(20) Section 302.4 (Weeds) is hereby amended so as to provide as follows:

302.4 Weeds. All premises and exterior property shall be maintained free from weeds and/or plant growth in excess of eight (8) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation other than trees or shrubs; provided, however, that this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, said owner and/or agent shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the Township's Enforcement Ordinance, No. 2007-6 as may be amended. Upon failure to comply with the notice of violation, any duly authorized employee or contractor of the Township shall be authorized to enter upon the property in violation 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. Only one enforcement notice will be issued to a violator per calendar year. Thereafter, a citation will be issued directly and without any warning being required. Any person, entity or corporation which shall violate this section, upon conviction thereof, shall be subject to a fine in an amount not less than \$300.00 nor more than \$1,000.00, the amount of the minimum fine to increase by \$100.00 for each second and subsequent offense in the same calendar year.

(21) Section 302.8 (Motor Vehicles) is hereby amended to provide as follows:

302.8 Motor Vehicles. Except as provided for in other Township ordinances, no inoperative or non-operating motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. All vehicles within Residential zoning districts (or used for residential purposes) shall be parked and/or stored only in garages and/or driveways (or, where permitted, in parking lots) on the subject premises.

- (i) Parking or storage of vehicles on yards is prohibited; provided, that only on lots having no driveway or a single vehicle-wide driveway with no garage or a one-vehicle garage and/or having no other parking area, one vehicle otherwise authorized by zoning regulations may be parked on the lot, if it is parked off of the street's cartway and sidewalks and parallel to the street.
- (ii) Parking or storage of vehicles on streets is prohibited where the owner or occupant has failed to ensure sufficient off-street parking for those vehicles used by owners and occupants of the premises.
- (iii) This section is not intended to modify or revoke Township regulations governing weather events and other circumstances in which parking on streets is prohibited.
- (iv) No off-street parking space or area shall be located and/or arranged so as to permit or cause any vehicle to be backed out onto any public street or highway, except in the case of single-family or two-family detached dwelling units.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work so long as such work is permitted in the zoning district and the vehicle is at all times kept within a structure or similarly enclosed area designed and approved for such purposes.

(22) Section 303.1, pertaining to Swimming Pools, Spas and Hot Tubs, is hereby amended to provide as follows:

303.1 Swimming Pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. All private swimming pools shall be located as required in Section 3.26.2 and 3.26.3 of the Zoning Ordinance, as may be amended, as follows:

- (i) A pool may be located only in the rear yard or side yard of the property on which it is an accessory use.
- (ii) The pool, including any above-ground decking, shall not be located closer than 7 feet from any property line of the property and not closer than 10 feet from the boundary of any public easement affecting the property.

(23) Section 304.3 (Premises Identification) is hereby amended to provide as follows:

304.3 Premises Identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street fronting the property and in accordance with standards set forth in the Township's Address Ordinance, No. 98-17, as may be amended. These numbers shall contrast with their background. Numbers shall be Arabic numerals or alphabet letters, subject to these minimum size standards:

1. 3-inch high one-half inch stroke Arabic numerals on single-family and two-family residential dwellings; or
2. 6-inch high Arabic numerals on all buildings used for purposes other than as single-family or two-family residential dwellings.

(24) Section 3.04.14 is amended so as to provide that insect screens shall be supplied during the period from May 1 to September 30.

(25) Section 308 (Rubbish and Garbage) is hereby amended by virtue of existence of related regulations in the Township's Municipal Waste and Recycling Ordinance, No. 2006-11 as amended, to provide as follows:

308.1 Accumulation of municipal waste and recyclable materials. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of municipal waste and recyclable materials.

308.2 Collection of municipal waste, recyclable materials and leaf waste. Every occupant of a structure shall place municipal waste, recyclable materials and leaf waste for collection by the contracted hauler in a clean and sanitary manner in accordance with regulations in the Township's Municipal Waste and Recycling Ordinance, Ordinance No. 2006-11, as may be amended.

308.2.1 Collection facilities/Placement for collection. The owner of every occupied premises shall supply approved and leak-proof containers with close-fitting covers for storage and disposition of municipal waste and recyclable materials generated on the subject premises, and the owner or responsible occupant shall be responsible for ensuring proper placement of municipal waste, recyclable materials and leaf waste for collection in accordance with Township regulations.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors. [Unchanged]

308.3. Arrangement for Collection. The owner of every premises shall enter into such contract as is required under the Township's Municipal Waste and Recycling Ordinance to ensure regular collection of municipal waste, recyclable materials and leaf waste generated on the subject premises in accordance with regulations of said Ordinance.

(26) Section 507.1 (Storm Drainage) is hereby amended so as to provide as follows:

507.1 General. Drainage of roofs and paved areas, *yards* and courts and other open areas on the premises, shall not be discharged in a manner which alters the natural flow of water or materially increases the volume of flows onto another's property or deviates from or alters an approved grading plan or an approved stormwater management plan.

(27) Section 6.02.3 is amended to provide that heating shall be supplied to leased premises during the period from September 1 to April 30.

(28) Section 6.02.4 is amended to provide that heating shall be supplied to occupiable work spaces during the period from September 1 to April 30.

1.02. It is the intention of this Ordinance that tables and commentary included in the adopted Property Maintenance Code be deemed a part of said adopted Code.

1.03. The text of the Property Maintenance Code as adopted with the above amendments (exclusive of the commentary, tables and figures in the IPMC publication) shall be prepared by the Township and disseminated to the retained code official and the public.

1.04. The Board of Supervisors is given the authority to determine how this Property Maintenance Code shall be administered and enforced; to retain and/or employ all persons and/or entities deemed necessary or appropriate; to establish schedules of fees and charges and to adopt such procedures, policies and forms as may be necessary to implement, administer and enforce the Code.

1.05. Subsequent editions and/or revisions of the IPMC shall be substituted for the 2012 edition as they are published, subject to the amendments set forth in this Ordinance. The Board of Supervisors, by ordinance, may make such other and further amendments to future editions of the Code as it deems appropriate.

1.06. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person, property or circumstances is for any reason held invalid or unconstitutional

by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions which shall be and remain in full force and effect. It is hereby declared the legislative intent that this Ordinance would have been adopted had such valid or unconstitutional provision of its application not been included herein.

1.07. All Ordinances or parts of any Ordinances inconsistent herewith are hereby repealed.

BE IT ENACTED this 17th day of December, 2013.


Richard P. Figaski, Secretary

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