

ORDINANCE NO. 2019-1223

An Ordinance Repealing Ordinance No. 2001-960 And Adopting, As Per The State Of New Jersey Regulations That Are Currently Adopted By State Statute, The Most Recent Version Of The *International Property Maintenance Code*, As Sections Thereof Are Revised And Deleted Herein, As A New Property Maintenance Code Of And For The Borough Of Manville

STATEMENT OF PURPOSE

The purpose of this Ordinance is to establish minimum regulations governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; known as the ***Property Maintenance Code***.

BE IT ORDAINED by the Mayor and Council of the Borough of Manville, in the County of Somerset and State of New Jersey, as follows:

PART 1. REPEAL OF ORDINANCE NO. 2001-960 Property Maintenance Code.

Ordinance No. 2001-960 is hereby repealed subject to the exceptions contained in PART 4, hereof.

PART 2. ADOPTION OF PROPERTY MAINTENANCE CODE.

At least three (3) copies are on file in the office of the Clerk of the Borough of Manville of the most recent version of the *International Property Maintenance Code*, adopted by New Jersey State Statute, as published by the International Code Council, and is hereby adopted as the *Property Maintenance Code* of the Borough of Manville, in the County of Somerset, State of New Jersey; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the *Property Maintenance Code* are hereby referred to, adopted, and made a part hereof, as if fully set out in this PART, with the additions, insertions, deletions and changes prescribed in PART 4.

101. 1 Title. These regulations shall be known as the *Property Maintenance Code* of the Borough of Manville hereinafter referred to as "this code."

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy shall be done in accordance with the procedures and provisions of the New Jersey law and Borough ordinances. In the event of any inconsistency between the provisions of this code and other applicable law or ordinance, the more stringent provision shall apply. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Manville Zoning Ordinance."

PART 3. REVISION OF SECTIONS.

The following sections of the *International Property Maintenance Code* are hereby revised to read as follows:

SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTIONS

103.1 General. The Department of Property Maintenance Inspection is hereby created. The executive official in charge thereof shall be known as the ‘**Code Enforcement Official.**’”

103.2 Appointment. Upon nomination of the Mayor, and by and with the advice council committee, the Code Enforcement Official shall be appointed.”

103.4 Liability. The Code Enforcement Official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not shall not be rendered civilly or criminally personally liable for any damages accruing to persons or property as a result of an act or omission in the discharge of official duties.

103.5 Fees. The fees and for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule:

103.6[RESERVED]

SECTION 104 DUTIES AND POWERS FO THE CODE ENFORCMENT OFFICIAL

104.6 Division records. The Code Enforcement Official shall keep official records of all business and activities of the division specified in the provisions of this code. Such records shall be retained in the official records so long as the building or structure to which such records relate and remain in existence, unless otherwise provided by other regulations.

SECTION 106 VIOLATIONS.

106.2 Notice of violation, order, summons and complaint. The Code Enforcement Official shall serve a notice of violation or order in accordance with Section 107. The Code Enforcement Official may file a summons and/or complaint in the municipal court or cause the issuance of the same, whether or not a notice of violation or order shall have been served. Any such summons and/or complaint shall be processed in accordance with law.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a disorderly persons offense, and the violation shall be deemed a strict liability offense. If the notice or 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.

106.4 Penalty: Any person, firm or corporation or entity who shall violate any of the provisions of this code shall be subject to a fine shall, after a summons is issued under the terms hereof, be punished as follows, for each such violation occurring during any calendar day being considered a separate offense:

A. For the first offense, by a fine not less than \$500 nor more than \$2,000.

- B. For a second offence, by a fine not less than \$1,000 nor more than \$2,000.
- C. For a third offense or any subsequent offenses, by a fine of not less than \$1,500 nor more than \$2,000 or imprisonment for a term not to exceed 90 days, or both, at the discretion of the court.
- D. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

The penalties pursuant to this section may be collected in a summary proceeding pursuant to N.J.S.A. 2A:58-1 et seq. (Penalty Enforcement Law).

106.4A Lien. In accordance with N.J.S.A. 40:48.2-13 et seq. (2017), any owner or tenant of lands who has neglected or refused to remove or destroy brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris having been duly noticed to remove same, within the manner and time provided shall be charged for the removal or destruction of same by the Borough, which at its option may remove or destroy the violation in order to preserve the health, safety, general welfare or to eliminate a fire hazard, and said charge shall become a lien upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands. Such a lien shall bear interest at the same rate as the taxes and shall be collected and enforced by the tax collector.

SECTION 107 NOTICE.

107.3 Method of Service:

- (a) Such notice shall be deemed to be properly served if a copy thereof is:
 - 1. Delivered personally;
 - 2. Sent by certified first-class and a 2nd sent by regular mail addressed to the last known address or the address on file in the Borough's Record system; or
 - 3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
- 4. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.
- 5. The date of personal service or the **third (3) business day** after mailing shall be considered the date of service.

SECTION 109 EMERGENCY MEASURES.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The costs of such repair shall be charged against the real estate upon which the repairs were made and shall be a lien upon such real estate.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Borough Clerk, be afforded a hearing as described in this code.

SECTION 111 MEANS OF APPEAL.

111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal provided that a written application for appeal is filed with the Borough Clerk within 5 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 this code or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of this code do not fully apply, or that the strict application of any requirement of this code would cause an undue hardship. The Borough Clerk shall forthwith forward a copy of the application of appeal to the code official and the Property Maintenance Hearing Officer. Nothing herein shall be construed as affording a right to an administrative appeal from a summons and/or complaint issuing out of the municipal court.

111.2 Property Maintenance Hearing Officer. Upon nomination of the Mayor, and by and with the advice and consent of the Council, a Property Maintenance Hearing Officer shall be appointed to serve for a term of one year and until his successor shall be appointed and qualified. A vacancy in office shall be filled for the balance of the unexpired term. Provided, however, the term of the initial appointee to the office of Property Maintenance Hearing Officer shall be from the date of appointment through December 31st. of the followyear.

Subsections 111.2.1 through 111.2.5 of the *International Property Maintenance Code* are hereby deleted.

111.3 Notice of hearing. The Property Maintenance Hearing Officer shall conduct a hearing upon notice to all interested parties within 20 days of the filing of an appeal, or within such extended period as shall be agreed upon by the parties.

111.4 Open hearing. All hearings before the Property Maintenance Hearing Officer shall be open to the public. The appellant, the appellant's representative, the Code Enforcement Official and any person whose interests are affected shall be given an opportunity to be heard.

111.4.1 Procedure. The Property Maintenance Hearing Officer shall promulgate and make available to the public procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence but shall mandate that only relevant information be received.

111.4.2 Disqualification. In the event the Property Maintenance Hearing Officer is disqualified or unable to conduct a hearing for any reason, the Mayor, without the necessity of Council confirmation, shall appoint a substitute to act in the Property Maintenance Hearing Officer's place.

PROPERTY MAINTENANCE OFFICER'S DECISION

111.6 Property Maintenance Hearing. The Property Maintenance Hearing Officer may affirm, modify or reverse the decision of the code official.

111.6.1 Records and copies. The decision of the Property Maintenance Hearing Officer shall be recorded. Copies shall be furnished to the appellant and to the code official.

111.6.2 Administration. The code official shall take immediate action in accordance with the decision of the Property Maintenance Hearing Officer.

111.7 Court review. Any appeal from a decision₄ of the Property Maintenance Hearing Officer

shall be taken to a court of competent jurisdiction in accordance with law.

111.8 Stays of enforcement. Appeals of notice and orders shall not stay the enforcement of the notice and order unless a stay is granted by the code official or by the Property Maintenance Hearing Officer upon application on an expedited basis.

SECTION 202 GENERAL DEFINITION.

Unoccupied or Vacant Building shall mean any structure intended for residential or commercial use which is not currently occupied or in use. For the purpose of the enforcement of this ordinance a presumption shall exist that a structure vacant for six months or more is not currently occupied or in use.

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 (6) 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, this term shall not include cultivated flowers and gardens.

302.8 Motor Vehicles. No person shall park or store any inoperable, wrecked, or partially dismantled vehicle the wheels of which are not all mounted, or which is in condition of major substantial disrepair, disassembly, or in the process of being stripped or dismantled, nor shall any person park or store any vehicle the tires of which are not inflated or does not have a current affixed and valid automobile license tag. Painting of vehicles is prohibited unless conducted inside an approved spray booth. This prohibition, however, shall not apply to any licensed repair facility or similarly enclosed area designed and approved for such purpose.

303.14 Insect screens. During the period from May 1 to October 1, 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 25mm) and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

SECTION 602 HEATING FACILITIES.

602.3 Heat supply. Every owner and operator of any building who rents, leases, or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall, supply heat during the period from October 1 to May 1 to maintain a temperature of not less than 65 °F (18 ° C) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 1 to maintain a temperature of not less than 65 ° F (18 ° C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

PART 4. PENDING MATTERS SAVED FROM REPEAL.

Nothing in this ordinance or in the *Property Maintenance Code* hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in **PART 1** of this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

PART 5. CONSTRUCTION.

Where consistent with the context in which used in this ordinance, words importing the singular shall include the plural; words importing the plural shall include the singular; and, words importing one gender shall include all other genders.

PART 6. SEVERABILITY.

In the event that any provision of this ordinance, or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this ordinance which may be given effect, and, to realize this intent, the provisions and applications of this ordinance are declared to be severable.

PART 7. PURPOSE OF CAPTIONS.

Captions contained in this ordinance have been inserted only for the purpose of facilitating reference to the various parts and sections and are not intended and shall not be utilized to construe the intent and meaning of the text of any part and section.

PART 8. EFFECTIVE DATE. This ordinance shall be effective immediately upon final adoption, approval and publication in accordance with law.

Borough of Manville,



Richard Onderko, Mayor

ORDINANCE #2019-1223

FIRST READING:

ROLL CALL

Introduced	Seconded	Council	Yes	No	Abstain	Absent
✓		MAGNANI	✓			
	✓	LUKAC	✓			
		PETRONE	✓			
		SKIRKANISH	✓			
		SZABO	✓			
		ZAMORSKI	✓			
		MAYOR ONDERKO				

INTRODUCED this 12th day of August, 2019

Attest:



Wendy Barras, Temporary Acting Borough Clerk

SECOND READING:

ROLL CALL

Introduced	Seconded	Council	Yes	No	Abstain	Absent
✓		MAGNANI	✓			
	✓	LUKAC	✓			
		PETRONE	✓			
		SKIRKANISH	✓			
		SZABO	✓			
		ZAMORSKI	✓			
		MAYOR ONDERKO				

[ADOPTED] [DEFEATED] this 9th day of September, 2019

Attest:



Wendy Barras, Temporary Acting Borough Clerk