

Chapter 62

ALCOHOLIC BEVERAGES

§ 62-1. Definitions.

§ 62-2. Consumption upon streets.

§ 62-3. Public parks and recreation areas.

§ 62-4. Permit for special events.

§ 62-5. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 7-6-82 as Ord. No. 82-4, approved 7-6-82. Amendments noted where applicable.]

§ 62-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALCOHOLIC BEVERAGE — Includes both liquor and malt or brewed beverages.

LIQUOR — Includes any alcoholic, spiritous, vinous, fermented or other alcoholic beverages or a combination of liquors or mixed liquors a part of which is spiritous, vinous, fermented or otherwise alcoholic, including all drinks or drinkable liquids, preparations or mixtures and reused, recovered or redistilled denatured alcohol or preparations or mixtures taxable for beverage purposes, which contain more than one-half of one percent ($\frac{1}{2}$ of 1%) of alcohol by volume, except pure ethyl alcohol or malt or brewed beverages.

MALT OR BREWED BEVERAGE — Any beer, lager beer, ale, porter or similar fermented malt beverages containing one-half of one percent ($\frac{1}{2}$ of 1%) or more of

alcohol by volume, by whatever name such beverage may be called.

§ 62-2. Consumption upon streets.

- A. Whoever engages in the consumption of any alcoholic beverages upon the public streets, sidewalks, parks, playgrounds, alleyways, or other public area of the Borough of Mahanoy City within the view of the traveling public and to the annoyance of the traveling public is guilty of a summary offense and, upon conviction thereof in a summary proceeding, shall be sentenced in accordance with § 62-5 of this chapter.
- B. This section applies to all drinking of alcoholic beverages upon the public streets, sidewalks, parks, playgrounds, alleyways or other public areas of the Borough of Mahanoy City, whether the offender(s) is on foot or the driver or passenger(s) of a parked vehicle or of a moving vehicle.

§ 62-3. Public parks and recreation areas.

It shall be unlawful for any person of any age whatsoever to consume, possess, sell, furnish or convey any alcoholic beverage within the confines of any public park or recreation area owned, maintained or leased by the Borough of Mahanoy City.

§ 62-4. Permit for special events.

Any organization which intends to hold a public gathering, block party, picnic, fair, bazaar or other such event may apply to the Borough Council of the Borough of Mahanoy City for a permit to sell or dispense alcoholic beverages for consumption on the premises by the members of said organization or the general public. The Borough Council may grant permission for such but must specify the dates for which such permission shall apply. Nothing in this section shall supersede the requirements of the Pennsylvania Liquor Control Board for such events.

§ 62-5. Violations and penalties.

Whoever is found guilty of violating the provisions of this chapter shall, upon conviction thereof in a summary proceeding, be sentenced to pay the cost of prosecution and to pay a fine not exceeding three hundred dollars (\$300.) and, upon default in the payment thereof, shall be imprisoned in the county jail for a period not to exceed thirty (30) days.

ANIMALS

Chapter 64

ANIMALS

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[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City: Art. I, 7-8-1980 as Ord. No. 405; Art. II, 6-8-1982 as Ord. No. 82-3, approved 6-8-1982; Art. III, 2-5-1985 as Ord. No. 85-1, approved 2-5-1985; Art. IV, 3-5-1991 as Ord. No. 91-1, approved 3-5-1991. Section 64-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I

General Provisions

[Adopted 7-8-80 as Ord. No. 405]

§ 64-1. Keeping of wild animals prohibited.

No wild animal of a type not commonly kept as domesticated pets shall be permitted to be housed, kept or maintained within the confines of the Borough of Mahanoy City, Pennsylvania.

§ 64-2. Keeping of domestic animals.

No domestic animals shall be permitted to run at large within the borough limits of the Borough of Mahanoy City, Pennsylvania, and all domestic pets must be kept on the property of the owner thereof or must be kept on a leash and must be maintained in a clean and sanitary condition.

§ 64-3. Removal of dead animals.

The disposition and removal of dead animals shall be under and by the authority of the Health Secretary of the Borough of Mahanoy City.

§ 64-4. Violations and penalties. [Amended 5-5-81 by Ord. No. 81-3]

Anyone violating any of the provisions of this chapter shall be subject to a fine of up to three hundred dollars (\$300.) and costs of prosecution and, upon default in payment of the fine and costs, shall be subject to imprisonment in the county jail for a term of up to thirty (30) days.

ARTICLE II**Domestic Animals**

[Adopted 6-8-82 as Ord. No. 82-3]

§ 64-5. Running at large.

- A. Any dog running at large in violation of the provisions of the Dog Law of 1965 (3 P.S. § 460-101 et seq.¹) or any dog

(Cont'd on page 6403)

¹ Editor's Note: 3 P.S. § 460-101 was repealed 1982, Dec. 7, P.L. 784, No. 225, § 1205(a), effective Jan. 1, 1983. See now 3 P.S. § 459-101 et seq.

in violation of this chapter of the Code of the Borough of Mahanoy City shall be subject to seizure, detention and disposal as provided in the Dog Law of 1965.

- B. Any other domestic animal running at large in violation of the provisions of this chapter of the Code of the Borough of Mahanoy City shall be subject to seizure, detention and disposal.

§ 64-6. Disturbing the peace.

It shall be unlawful to own, harbor or keep in custody any dog or other pet which disturbs the peace by barking, howling or meowing or the making of other loud noises by such dog or other pet for more than one (1) hour of continuous barking, howling, meowing or making other loud noises for periods of less than one (1) hour but more than one-half ($\frac{1}{2}$) hour, which periods occur on two (2) or more consecutive days. Such behavior shall be deemed to disturb the peace and to cause the annoyance and discomfort of persons in the Borough of Mahanoy City.

§ 64-7. Warning to owners.

- A. Any person may request the Borough Police Department to warn any person who shall own, harbor or keep in custody any dog or other pet which disturbs the peace by barking, howling, meowing or making other loud noises to the annoyance and discomfort of persons in the Borough of Mahanoy City.
- B. Any such request shall be in writing and shall identify and specify the residence of the owner, keeper or custodian of the dog or other pet and shall identify and specify the residence of the person making the request. Upon receipt of such request, the Police Department shall investigate the complaint and, upon its satisfaction that there is probable cause that such complaint is valid, shall cite the owner, keeper or custodian of the dog or other pet by giving a warning.

- C. A warning by the Police Department shall consist of delivery of a copy of this chapter at the residence in the Borough of Mahanoy City of any such owner, keeper or custodian or by mailing the same by registered mail, if such residence shall be outside the Borough of Mahanoy City, together with a written notice that no further warnings shall be given and that future complaints shall be prosecuted.
- D. A violation of this chapter shall be deemed to have occurred upon a second or subsequent violation of § 64-6 after the date of delivery of the warning.
- E. No warning is required in order to enforce any section of this chapter other than § 64-6 of this chapter.

§ 64-8. Injury to humans.

It shall be unlawful for the owner, keeper or custodian of any dog or other pet to permit said dog or other pet to run at large or to injure any human being by biting, jumping on, knocking down or attacking said human being. This section shall not apply to such animal behavior on the premises of the animal's owners, provided that the animal is properly fenced or secured thereon.

§ 64-9. Nuisances prohibited.

No person owning, harboring, keeping or in charge of any dog or other pet shall cause, suffer or allow such dog or other pet to soil, defile, defecate on or commit any nuisance on any common sidewalk, passageway, bypath, play area, park or any other place where people congregate or walk or on any public property whatsoever or on any private property without the permission of the owner of said property. The restriction in this section shall not apply to that portion of the street lying between the curblines under the following conditions:

- A. The person who so curbs such dog or any other pet shall immediately remove all feces deposited by any dog or other such pet by any sanitary method.

- B. The feces removed from the aforementioned area shall be disposed of in a sanitary manner by the person owning, harboring, keeping or in charge of any dog or other such pet which is curbed in accordance with the provisions of this chapter.

§ 64-10. Number restricted; exceptions. [Amended 1-11-2005 by Ord. No. 2005-3, approved 1-11-2005]

It shall be unlawful to keep more than three dogs, cats or any other pets on any premises, regardless of the number of owners. It is the intention of this section to limit the number of such pets to three, regardless of whether they are dogs, cats or any other animals, or any combination thereof. This section shall not apply to fish or turtles kept in aquariums. This section shall not apply to any premises for which a kennel license has been obtained pursuant to the Dog Law of 1965 (3 P.S. § 460-208 et seq.). This provision shall not apply to animals which have been owned prior to the effective date of this article.

§ 64-11. Violations and penalties.

Any person who shall be convicted of violating or failing to comply with the provisions of this chapter before any District Magistrate shall be punishable by a fine of not more than \$300, together with costs of prosecution; and, in default of payment of such fine and costs, the violator shall be subject to imprisonment in the county jail for a term not to exceed 30 days. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of a violation may be punished as provided above for each separate offense.

ARTICLE III

Defecation on Public or Private Property**[Adopted 2-5-1985 by Ord. No. 85-1, approved 2-5-1985]****§ 64-12. Prohibition.**

All persons owning or keeping a dog or other domestic animal are hereby prohibited from allowing said dog or other domestic animal from defecating in any public place or on private property not owned by said owner or keeper, unless said dog owner or animal owner immediately removes the excrement from the place where it was deposited by his or her animal.

§ 64-13. Responsibility of owner.

In the event of joint ownership of a dog or other domestic animal, either or both owners of said dog or animal are responsible for removing the excrement deposited by said dog or other animal in a place prohibited under the terms of this chapter.

§ 64-14. Accumulation of excrement; time limit for removal.

No owner of any dog or other domestic animal shall permit accumulations of animal excrement to accumulate upon his/her own property unless said owner removes and places into secure containers said excrement within 24 hours after it is deposited by said dog or other animal.

§ 64-15. Violations and penalties.

Any dog owner or animal owner violating the terms of this article shall, upon conviction of violating same, be subject to a fine not exceeding \$50 for each violation. Each incident of failing to clean up a dog's or other animal's excrement shall constitute a separate violation of this article.

ARTICLE IV

Cats

[Adopted 3-5-1991 by Ord. No. 91-1, approved 3-25-1991]

§ 64-16. Definitions.

As used in this article, the following words are defined as follows:

CAT — A felis libyca domestica, kept as a pet and/or for rodent control.

OWNER — Any person owning, keeping, feeding, harboring or having custody of a cat, or who allows a cat to reside or remain about his premises, shall be considered a cat “owner.”

VACCINATION — The practice of inoculations with a vaccine to afford protection from rabies, as required by the Pennsylvania Department of Environmental Resources.

§ 64-17. Responsibilities of owners keeping cats.

A. It shall be unlawful for any owner to have any cat that becomes a nuisance in the Borough. Acts of nuisance shall include, but are expressly not restricted to, the following;

- (1) The frequent raising of any disturbance between the hours of 9:00 p.m. and 7:00 a.m., prevailing time, or at extended intervals at any other time of the day or both.
- (2) Viciousness.
- (3) Frequent digging into flower beds, lawns, childrens' sandboxes or gardens or the depositing of feces or urine and/or otherwise damaging shrubbery, trees or lawns on premises, personal property or other property not belonging to the owner of the cat.

- B. No owner shall permit a cat to enter upon any area designated as a "tot lot" in any publicly owned park or playground.
- C. Any owner of a cat shall comply with and be current with rabies vaccination requirements of the laws of the Commonwealth of Pennsylvania with regard to cats.

§ 64-18. Enforcement; seizure; redemption; disposal.

- A. The Health Inspector, Borough Police Force and/or other person or agency designated by the governing body of the Borough shall enforce the provisions of this article. Upon receipt of a complaint that a cat is a public nuisance, the Inspector will investigate said complaint and, if found to be legitimate, the Inspector shall authorize the seizure of the cat by the issuance of a humane-type cat trap to trap said cat alive. It shall be prohibited for any person other than a person authorized by the Borough of Mahanoy City to remove or release any animal from such a trap.
- B. The person who is issued the trap must notify the enforcement officer as soon as possible after a cat is apprehended. The enforcement officer and/or the person or agency designated by the governing body of the Borough will transport and deliver the cat to the SPCA for holding. If the cat so apprehended bears any identification of ownership, the designated officer shall, on the date of apprehension, notify the owner that the animal has been apprehended and that it may be claimed at a designated location subject to the provisions of this article.
- C. Any cat may be claimed by its owner at the SPCA during the custodial period and shall pay all costs for the care, maintenance and disposal of said cat at the prevailing SPCA rate.

- D. Any cat which has been seized pursuant to this article and which has not been reclaimed during the custodial period may be disposed of in a humane manner in accordance with standards generally followed by the SPCA.

§ 64-19. (Reserved)¹

¹ Editor's Note: Former § 64-19, Number restricted; exceptions, was repealed 1-11-2005 by Ord. No. 2005-3, approved 1-11-2005.

§ 64-20. Right of entry.

The Health Officer or the Inspector, Borough Police and/or authorized agent or any municipal officer or agent authorized and empowered to perform any duty under this Article is hereby authorized to enter upon any premises to enforce the provisions of this Article.

§ 64-21. License required; fees; rabies inoculation.

- A. In order for the borough to distinguish between a stray cat or owned cat, the borough requires the licensing of all cats by their owners within the limits of Mahanoy City.
- B. Licenses can be obtained at the Mahanoy City Municipal Building, 239 East Pine Street, Mahanoy City, Pennsylvania 17948 during regular business hours.
- C. License costs:
 - (1) Neutered male or female cat: one dollar (\$1.) per license (proof of neutering required).
 - (2) Unaltered cat: five dollars (\$5.) per license.
- D. Licenses will be required to be purchased on a yearly basis.
- E. Any cat six (6) months or older must be licensed and have the appropriate rabies vaccine. A license will not be issued without the proof of a rabies inoculation certificate.

§ 64-22. Violations and penalties.

It shall be unlawful for any person to knowingly own, keep, feed or harbor any cat which has been found to violate the provisions of this Article. Any person found to violate the provisions of this Article shall, upon conviction, receive a fine not greater than one thousand dollars (\$1,000.).

Chapter 67

ARSONISTS

§ 67-1. Prohibited acts.

§ 67-2. Reward for information.

§ 67-3. Determination of eligibility for reward.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 10-5-71 as Ord. No. 370. Amendments noted where applicable.]

§ 67-1. Prohibited acts.

It shall be a violation of this chapter as well as the statutes of this commonwealth to commit any act or acts of arson in the borough limits of Mahanoy City.

§ 67-2. Reward for information.

The Borough Council offers as a reward and shall pay to the first person or group of persons the total sum of one thousand dollars (\$1,000.) for information leading to the apprehension and conviction of a person or persons committing or attempting to commit an act or acts of arson in said Borough of Mahanoy City.

§ 67-3. Determination of eligibility for reward.

The Borough Council sitting in executive session shall be the sole judge by majority vote thereof to determine the person or group of persons entitled to said reward, payable immediately after a plea of guilty or conviction by the Criminal Division of the Court of Common Pleas and affirmation by the appellate courts if an appeal is lodged.

Chapter 69

BICYCLES

- § 69-1. License required.
- § 69-2. Issuance of license; duration.
- § 69-3. License plates and registration cards; records.
- § 69-4. Sale or transfer of ownership.
- § 69-5. Removal or mutilation of evidence of ownership.
- § 69-6. Fees.
- § 69-7. Number of passengers restricted.
- § 69-8. Equipment for night operation.
- § 69-9. Operation on sidewalk prohibited.
- § 69-10. Traffic rules.
- § 69-11. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 11-11-1992 as Ord. No. 92-7, approved 11-11-1992. Amendments noted where applicable.]

§ 69-1. License required.

It shall be unlawful for any person to operate or use a bicycle upon any of the streets, alleys or public highways of the borough without first obtaining from the police force a license therefor.

§ 69-2. Issuance of license; duration.

The police force is hereby authorized and directed to issue, upon written application, a bicycle license, which shall be effective from the first day of January 1993 to and including December 31, 1993, and for

each calendar year thereafter. Said license, when issued, shall entitle the licensee to operate a bicycle for the year for which said license has been issued upon all the streets, alleys and public highways exclusive of the sidewalks thereof in the borough.

§ 69-3. License plates and registration cards; records.

The borough shall provide each year a license plate, together with registration cards. Said license plate and registration cards shall have numbers stamped thereon in numerical order beginning with number one (1) and shall indicate the year for which the same are issued and stamped thereon; it shall be the duty of the police force to attach one (1) such license plate to the frame of each bicycle and to issue a corresponding registration card to the licensee upon the payment of the license fee herein provided for. Such license plate shall remain attached during the existence of such license. The police force shall also keep a record of the date of issue of each license, to whom issued and the number thereof.

§ 69-4. Sale or transfer of ownership.

It shall be the duty of every person who sells or transfers ownership of any bicycle to report such sale or transfer by returning to the police force the registration card issued to such person as licensee thereof, together with the name and address of the person to whom such bicycle was sold or transferred, and such report shall be made within five (5) days of the date of such sale or transfer. It shall be the duty of the purchaser or transferee of such bicycle to apply for a transfer of registration thereof within five (5) days of said sale or transfer.

§ 69-5. Removal or mutilation of evidence of ownership.

It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame licensed pursuant to this chapter. It shall also be unlawful for any person to remove, destroy, mutilate or alter any license plate, seal or registration card during the time in which such license plate, seal or registration card is operative; provided, however, that nothing in this chapter shall prohibit the police force from stamping numbers on the

frame of a bicycle on which no serial numbers can be found or on which some numbers are illegible or insufficient for identification purposes.

§ 69-6. Fees.

The fee to be paid for each bicycle is two dollars (\$2.), which shall be paid in advance. Subsequent yearly inspections shall be at no additional cost. Said fee of two dollars (\$2.) shall cover all yearly inspections so long as the same individual owns the bicycle. In the event that said bicycle is transferred to a new owner, the new owner shall pay a fee of two dollars (\$2.) as the inspection fee. All license fees collected under this chapter shall be paid into the general fund of the borough.

§ 69-7. Number of passengers restricted.

It shall be unlawful for two (2) or more persons to operate or ride on a one-passenger bicycle, and it shall be unlawful for three (3) or more persons to operate or ride on a two-passenger or tandem bicycle.

§ 69-8. Equipment for night operation.

It shall be unlawful for any person to operate or use a bicycle from one (1) hour after sunset until one (1) hour before sunrise unless the same is equipped with a headlight which can be seen for a distance of at least two hundred fifty (250) feet and taillight reflector which can be seen for a distance of at least one hundred fifty (150) feet.

§ 69-9. Operation on sidewalk prohibited.

It shall be unlawful for any person to operate or park a bicycle on any of the sidewalks of the borough.

§ 69-10. Traffic rules.

All ordinances and traffic rules of the borough applicable to vehicular traffic shall apply with equal force and effect to the operation of bicycles.¹

§ 69-11. Violations and penalties.

Any person, firm or corporation violating any of the provisions of this chapter shall, upon summary conviction before a District Magistrate, be sentenced to pay a fine of not less than ten dollars (\$10.) and not more than twenty-five dollars (\$25.) for each and every offense, together with all costs thereof and, in default of payment thereof, shall undergo imprisonment for not more than five (5) days.

¹ Editor's Note: See Ch. 179, Vehicles and Traffic.

Chapter 70

BRUSH, GRASS AND WEEDS

- § 70-1. Height and location restrictions.
- § 70-2. Poisonous or detrimental plants.
- § 70-3. Duty of owner or occupant of property.
- § 70-4. Notice to remove.
- § 70-5. Service and contents of notice.
- § 70-6. Performance of work by borough.
- § 70-7. Collection of costs.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 8-4-81 as Ord. No. 81-7, approved 8-4-81.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Housing and property maintenance --- See Ch. 121.

§ 70-1. Height and location restrictions.

It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any owner, lessee or occupant having control of any occupied or unoccupied lot or land or any part thereof in the Borough of Mahanoy City to permit or maintain, on any such lot or land, any growth of weeds, grass or other rank vegetation to a greater height than twelve (12) inches

¹ Editor's Note: This ordinance also superseded former Ch. 70, Brush, Grass and Weeds, adopted 9-2-80 as Ord. No. 408.

on the average or any accumulation of dead weeds, grass or brush or to permit or maintain, on or along the sidewalk, street or alley adjacent to said lot or land between the property line and the curb or between the property line and the traveled parts of such street or alley where there is no curb, any growth of weeds, grass or other vegetation to a greater height than six (6) inches on the average.

§ 70-2. Poisonous or detrimental plants.

It shall also be unlawful for any person to cause, suffer or allow poison ivy, ragweed or other poisonous plant or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed or other poisonous or harmful weed or plant shall extend upon, overhang or border any public place or to allow seed, pollen or other poisonous particles or emanations therefrom to be carried through the air into any public place.

§ 70-3. Duty of owner or occupant of property.

It shall be the duty of any owner, lessee or occupant of any lot or land to cut and remove or to kill by spraying, or cause to be cut and removed or killed by spraying, all such weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of § 70-1; provided, however, that cutting and removing or killing by spraying such weeds, grass and vegetation at least once in every three (3) weeks between April 1 and November 1 shall be deemed to be compliance with the terms and provisions of said section.

§ 70-4. Notice to remove.

If the provisions of §§ 70-1, 70-2 and 70-3 are not complied with, the Mayor may serve written notice upon the owner, lessee or occupant or any person having the care or control of any such lot or land to comply with the provisions of said sections.

§ 70-5. Service and contents of notice.

Such written notice shall be mailed to such owner, lessee, occupant or person at his last known address or, if such owner, lessee, occupant or person or his address is unknown, such notice may be affixed to or posted upon said lot or land. Such notice shall require compliance with the provisions of said sections within five (5) days after the date of the mailing or posting of such notice as aforesaid.

§ 70-6. Performance of work by borough.

If the person upon whom such notice is served fails, neglects or refuses to cut and remove or to kill by spraying, or to cause to be cut and removed or killed by spraying, such weeds, grass or other vegetation within five (5) days after the date of the mailing or posting of such notice as aforesaid, the Mayor shall cause such weeds, grass and other vegetation on such lot or land to be cut and removed or killed by spraying.

§ 70-7. Collection of costs.

The actual cost to the borough of such cutting and removing or killing by spraying, plus a sum equal to five percent (5%) of such actual cost for inspection and other additional cost in connection therewith shall be certified by the Mayor to the Secretary-Treasurer of the borough, and the amount thereof shall thereupon become and be processed by the Borough Solicitor as a lien upon the property on which such weeds are located.

BUILDING CONSTRUCTION

Chapter 72

BUILDING CONSTRUCTION

ARTICLE I

Building Construction Generally

- § 72-1. **Adoption of building standards.**
- § 72-2. **Additions, Insertions and changes.**
- § 72-2.1. **Hearing Board; costs for transcription of proceedings.**
- § 72-3. **Saving clause.**

ARTICLE II

Dwelling Construction

- § 72-4. **Adoption of dwelling construction standards.**
- § 72-5. **Additions, insertions and changes.**
- § 72-6. **Saving clause.**

ARTICLE III

Industrialized Dwelling Construction

- § 72-7. **Adoption of industrialized dwelling standards.**
- § 72-8. **Additions, insertions and changes.**
- § 72-9. **Saving clause.**

ARTICLE IV

Fees

- § 72-10. **Applications for building permits.**

ARTICLE V
Violations and Penalties

§ 72-11. Violations and penalties.

ARTICLE VI
Building Permits; Demolition Permits

§ 72-12. Term of building permit; extensions.

§ 72-13. Term of demolition permits; extensions.

§ 72-14. Time limits for completion of demolition projects; extensions; violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Electrical standards — See Ch. 88.
 Fire prevention — See Ch. 102.
 Furnaces and fuel oil — See Ch. 108.
 Housing and property maintenance — See Ch. 121.
 Mechanical standards — See Ch. 136.
 Plumbing — See Ch. 146.
 Woodburning stoves and chimneys — See Ch. 184.

ARTICLE I
Building Construction Generally

[Adopted 5-4-1976 as Ord. No. 381, approved 5-12-1976]

§ 72-1. Adoption of building standards. **[Amended 5-5-1981 by Ord. No. 81-3, approved 5-5-1981; 8-4-1987 by Ord. No. 87-7, approved 8-4-1987]**

A certain document, three copies of which are on file in the office of the Borough of Mahanoy City Secretary of the Borough of Mahanoy City of Schuylkill County, being marked and designated as the current "BOCA National Building Code," is

hereby adopted as the Building Code of the Borough of Mahanoy City of Schuylkill County in the Commonwealth of Pennsylvania, for the control of buildings and structures as

(Cont'd on page 7203)

herein provided: and each and all of the regulations, provisions, penalties, conditions and terms of the current BOCA National Building Code are hereby referred to, adopted and made a part hereof as if fully set forth herein, with any amendments or changes, additions, insertions or deletions. Any subsequent BOCA National Building Codes are also hereby adopted as the Building Code of said borough.

§ 72-2. Additions, insertions and changes. [Amended 5-5-1981 by Ord. No. 81-3, approved 5-5-1981; 8-4-1987 by Ord. No. 87-7, approved 8-4-1987]

- A. The Borough of Mahanoy City is the governing body in all of the provisions of the BOCA National Building Code. The violation of any of the terms of said code constitutes a summary offense punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution for each offense or, upon default of payment of the fine and costs, by imprisonment in the county jail for no more than thirty (30) days. The remaining provisions of this section of the current Code of the Borough of Mahanoy City are hereby retained, and the amounts and items set forth therein are hereby applied to the current edition and future editions of the BOCA National Building Code.
- B. The Borough of Mahanoy City is the municipality for all purposes under this Article. **[Amended 9-8-1992 by Ord. No. 92-5, approved 9-8-1992]**
- C. The duty to obtain a building permit as set forth in this Article is imposed under both the owner/occupant/lessee of the premises as well as the contractor, if any, who or which is to perform the work. Said duty is imposed upon both the owner/occupant/lessee on the one hand and the contractor on the other, jointly and severally. Any fines or penalties for noncompliance may be imposed upon all violators of this Article. Each day of noncompliance with this Article represents a separate violation thereof. The maximum penalty for a violation of this Article is a fine

of three hundred dollars (\$300.) per day for each day's violation and/or thirty (30) days in jail, or both. [Added 9-8-1992 by Ord. No. 92-5, approved 9-8-1992]

- D. All references to a a Hearing Board to hear appeals from the orders of the Code Enforcement Officer are hereby deleted in their entirety, except that the notice of the violation, manner of appeal and time in which to file an appeal shall be retained. [Added 11-14-1995 by Ord. No. 95-4, approved 11-14-1995]

§ 72-2.1. Hearing Board; costs for transcription of proceedings. [Added 11-14-1995 by Ord. No. 95-4, approved 11-14-1995]

- A. A Hearing Board shall be appointed by Borough Council to hear appeals of orders of the Code Enforcement Officer. An appeal must be in writing and presented by the appellant to the Borough Secretary within ten (10) days of service of the order by the Code Enforcement Officer upon the aggrieved party or posting such an order on the affected premises, whichever first occurs. Other rules of procedure may be adopted by the Board or the Borough Council by resolution. The Board shall have the authority to confirm, vacate, reverse, remand or modify the order of the Code Enforcement Officer. A written decision of the Board shall be made and issued within the time period prescribed elsewhere in the BOCA Code or under state law, whichever is less.
- B. The Hearing Board shall consist of the Borough Council of the Borough of Mahanoy City or a separate panel consisting of not fewer than three (3) individuals who may be members of the Borough Council or other such individuals as may be appointed by the Borough Council to hear such appeals. A quorum of the Board of Appeals shall consist of any three (3) members and shall be sufficient to hear appeals and render decisions. The appointments may be made at the time of reorganization of Council or at such time as vacancies may occur. Any

individuals appointed to the Hearing Board shall serve terms of two (2) years from the date of the appointment, except that an individual appointed to fill a vacancy shall serve until the completion of the term of the person whose initial vacancy is being filled. Said members shall serve without compensation, except that reasonable expenses incurred by the Board shall be reimbursed by the borough.

- C. Normally no transcript should be made of the proceedings unless requested by the appellant, and, therefore, in that case, the appellant shall be responsible for all costs of the transcript and the stenographer and for an advancement of such costs if deemed necessary by the Board.

§ 72-3. Saving clause.

Nothing in this Article or in the Building 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 accrued or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Article.

(Cont'd on page 7205)

ARTICLE II

Dwelling Construction

[Adopted 5-4-76 as Ord. No. 387, approved 5-12-76]

§ 72-4. Adoption of dwelling construction standards. [Amended 8-4-87 by Ord. No. 87-7, approved 8-4-87]

A certain document, three (3) copies of which are on file in the office of the Borough of Mahanoy City Secretary of the Borough of Mahanoy City, County of Schuylkill, being marked and designated as the current "One and Two Family Dwelling Code," is hereby adopted as the One and Two Family Dwelling Code of the Borough of Mahanoy City of the County of Schuylkill in the Commonwealth of Pennsylvania, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the current One and Two Family Dwelling Code are hereby referred to, adopted and made a part hereof as if fully set out in this Article, with the additions, insertions and changes, if any, prescribed in § 72-5 of this Article. Any future changes in this code are also hereby adopted by the Borough of Mahanoy City so that the current edition of said code constitutes the lawful ordinance of the Borough of Mahanoy City.

§ 72-5. Additions, insertions and changes.

The following sections are hereby revised as follows.³

§ 72-6. Saving clause.

Nothing in this Article or in the One and Two Family Dwelling 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 accrued or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Article.

³ Editor's Note: No additions, insertions or changes were made in the One and Two Family Dwelling Code by Ord. No. 387. See the copy of the code on file in the office of the Borough Secretary for possible revisions made therein.

ARTICLE III
Industrialized Dwelling Construction
[Adopted 5-4-76 as Ord. No. 383, approved 5-12-76]

§ 72-7. Adoption of industrialized dwelling standards.
[Amended 8-4-87 by Ord. No. 87-7, approved 8-4-87]

A certain document, three (3) copies of which are on file in the office of the Borough of Mahanoy City Secretary of the Borough of Mahanoy City of Schuylkill County, being marked and designated as the current "BOCA Basic Industrialized Dwelling Code," is hereby adopted as the Industrialized Dwelling Code of the Borough of Mahanoy City of Schuylkill County in the Commonwealth of Pennsylvania, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the BOCA Basic Industrialized Dwelling Code, current edition, and any future editions, are hereby referred to, adopted and made a part hereof as if fully set out in this Article, with the additions, insertions and changes, if any, prescribed in § 72-8 of this Article.

§ 72-8. Additions, insertions and changes.

The following sections are hereby revised as follows:⁴

§ 72-9. Saving clause.

Nothing in this Article or in the Industrialized Dwelling 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 accrued or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Article.

⁴ Editor's Note: No additions, insertions or changes were made in the BOCA Basic Industrialized Dwelling Code by Ord. No. 383. See the copy of the code on file in the office of the Borough Secretary for possible revisions made therein.

ARTICLE IV

Fees

[Adopted 8-4-1981 as Section 2 of Ord. No. 81-5, approved 8-4-1981; amended in its entirety 3-12-2002 by Ord. No. 2002-2, approved 3-12-2002]

§ 72-10. Applications for building permits.

- A. Fees for applications for a building permit, which fees shall accompany any applications for a building permit and which fees are payable to the municipality, based upon the estimated cost of the proposed construction as determined by the Building Permit Officer, are as follows:

Estimated Costs (up to)	Fee
\$1,000	\$10
5,000	20
10,000	30
15,000	35
20,000	40

- B. For each additional \$5,000 of construction cost above the sum of \$20,000, the sum of \$5 per \$5,000 or fraction thereof shall be charged to the applicant.

ARTICLE V

Violations and Penalties

[Adopted 8-4-1987 as part of Ord. No. 87-7, approved 8-4-1987¹]

§ 72-11. Violations and penalties.

The violation of any of the provisions of any of the aforesaid codes, unless otherwise specifically provided therein,

¹ Editor's Note: This ordinance also provided for amendments to §§ 72-1, 72-2, 72-4 and 72-7 of this chapter.

constitutes a summary offense punishable by a fine not to exceed \$300 per incident or, in default of payment thereof, a term of imprisonment of 30 days per incident.

ARTICLE VI

Building Permits; Demolition Permits
[Adopted 5-12-1998 by Ord. No. 98-3,
approved 5-12-1998]

§ 72-12. Term of building permit; extensions.

Building permits issued within the Borough shall be valid for a period of 180 days from the date of issuance of the permit unless extended by the Code Enforcement Officer for an additional period of time. Said extensions shall be issued at the sole discretion of the Code Enforcement Officer and may be extended any number of times; however, each extension granted may not exceed 30 days.

(Cont'd on page 7209)

§ 72-13. Term of demolition permits; extensions.

Demolition permits issued within the borough shall be valid for a period of 60 days from the date of issuance of the permit unless extended by the Code Enforcement Officer for an additional period of time. Said extensions shall be issued at the sole discretion of the Code Enforcement Officer and may be extended any number of times; however, each extension granted may not exceed 30 days.

§ 72-14. Time limits for condition of demolition projects; extensions; violations and penalties.

- A. Any demolition project commenced within the borough must be completed within 60 days from the date the demolition permit is issued by the borough unless extended by the Code Enforcement Officer for an additional period of time. Said extension shall be issued at the sole discretion of the Code Enforcement Officer and may be extended any number of times, however, each extension granted may not exceed 30 days.
- B. Violation of any of the terms of this section constitutes a summary offense punishable by a fine of not more than \$300 and costs of prosecution for each offense or, upon default of payment of the fine and costs, by imprisonment in the Schuylkill County prison for no more than 30 days. Each day of noncompliance with this section represents a separate violation thereof.

Chapter 75

BUILDINGS, NUMBERING OF

§ 75-1. Numbering system established.

§ 75-2. Furnishing of numbers.

§ 75-3. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 10-20-08 as Ord. No. 31, approved 10-21-08. Section 75-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 72.

§ 75-1. Numbering system established.

Houses and other buildings in the borough shall be numbered under the following plan: On Center Street and all streets and alleys running parallel thereto, the numbers shall begin at Main Street and run east and west, counting each square one hundred (100) numbers, two (2) numbers being allotted to each twenty-five (25) feet, the north sides of said streets to be odd and the south sides to be even numbers. On Main Street and all streets and alleys running parallel thereto, the numbers shall begin at Center Street and run north and south, the east sides of said streets to be numbered consecutively in odd numbers and the west sides to be numbered consecutively in even numbers, each twenty-five (25) feet to be allowed two (2) numbers.

§ 75-2. Furnishing of numbers.

It shall be the duty of the Secretary of Council, on the application of any property owner, to furnish the proper number to such property.

§ 75-3. Violations and penalties.¹

Any person violating this chapter by neglecting or refusing to place the proper number over or upon his or her door according to the plan designated in this chapter within ten (10) days after due notice from the Mayor shall, upon judgment against him or her therefor be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 77

BURNING, OUTDOOR

§ 77-1. Title.

§ 77-2. Definitions.

§ 77-3. Prohibited acts.

§ 77-4. Exceptions.

§ 77-5. Enforcement.

§ 77-6. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 10-13-1998 by Ord. No. 98-2, approved 10-13-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Arsonists — See Ch. 67.

Woodburning stoves and chimneys; smoke alarms; self-extinguishing fire suppression systems — See Ch. 184.

§ 77-1. Title.

This chapter shall be referred to and cited as the “Borough of Mahanoy City Burning Ordinance.”

§ 77-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FURNACE — Any enclosed device specifically designed for burning any material for the production of heat.

GARBAGE — All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

INCINERATOR — Any device specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material.

OPEN FIRE — A fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.

PERSON — Any individual, partnership, association, corporation, department, bureau, agency or other legal entity.

REFUSE — Garbage, rubbish, trade waste and recyclable paper.

RUBBISH — Solids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, wood, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.

SALVAGE OPERATION — Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

TRADE WASTE — All solid or limited material or rubbish resulting from construction, building operations or the prosecution of any business, trade or industry, including but not limited to plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials, provided that trade waste shall not include any coal refuse associated with the mining or preparation of coal.

§ 77-3. Prohibited acts.

Within the limits of the Borough of Mahanoy City, no person shall:

- A. Ignite or feed an open fire for the destruction of refuse or in the conduct of a salvage operation in any public or private place outside any building; or
- B. Cause, suffer, allow or permit the maintenance of any open fire for the destruction of refuse or in the conduct of a salvage operation on any property under his control outside of any building.

§ 77-4. Exceptions.

- A. Subject to the following exceptions, open fires may be set:
 - (1) In the performance of an official duty of any public officer, if the fire is necessary for the prevention of a fire hazard which cannot be abated by other means or the protection of public health. The provisions of this chapter shall not apply to the use of barbecue grills, fireplaces, etc., for the purposes of food preparation.
- B. This chapter does not prohibit the issuance of a special burning permit by the local Fire Chief whenever circumstances so dictate. Such special permit shall be issued in writing by the Fire Chief on a form provided by the borough. In granting such permit, the Fire Chief shall determine whether or not the fire company shall be in attendance. Additionally, the Fire Chief must obtain approval from the Borough Council Fire Committee prior to the issuance of any special permit.

§ 77-5. Enforcement.

This chapter shall be enforced by the Borough of Mahanoy City Police Department.

§ 77-6. Violations and penalties.

Any person who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 and the costs of prosecution and, in default of payment, undergo imprisonment for a term not to exceed 30 days.

Chapter 78

CONSTRUCTION CODES, UNIFORM

- § 78-1. Election to administer and enforce.
- § 78-2. Adoption and incorporation by reference.
- § 78-3. Methods for administration and enforcement.
- § 78-4. Board of Appeals.
- § 78-5. Effect on other regulations.
- § 78-6. Fees.
- § 78-7. Effective date.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 6-8-2004 by Ord. No. 2004-3, effective 7-8-2004. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 70.
Building construction — See Ch. 72.
Outdoor burning — See Ch. 77.
Electrical standards — See Ch. 88.
Firearms and fireworks — See Ch. 99.
Fire prevention — See Ch. 102.
Housing and property maintenance — See Ch. 121.
Mechanical standards — See Ch. 136.
Occupancy permits — See Ch. 140.
Plumbing — See Ch. 146.

§ 78-1. Election to administer and enforce.

The Borough of Mahanoy City hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. § 7210.101 through 7210.1103, as amended from time to time, and its regulations.

§ 78-2. Adoption and incorporation by reference.

The Uniform Construction Code, contained in 34 Pa. Code, Chapters 401 through 405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of the Borough of Mahanoy City.

§ 78-3. Methods for administration and enforcement.

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

- A. By the designation of an employee of the Borough of Mahanoy City to serve as the municipal code official to act on behalf of the Borough of Mahanoy City;
- B. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Borough of Mahanoy City;
- C. By agreement with one or more other municipalities for the joint administration and enforcement of this Act 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 of Mahanoy City;
- 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.

§ 78-4. Board of Appeals.

A Board of Appeals shall be established by resolution of the Borough Council of the Borough of Mahanoy City in conformity with the requirements of the relevant provisions of the code, as

amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

§ 78-5. Effect on other regulations.

- A. All building code ordinances or portions of ordinances which were adopted by the Borough of Mahanoy City 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 portions of ordinances which are in effect as of the effective date of this chapter 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 ordinances, regulations and policies of the Borough of Mahanoy City not governed by the code shall remain in full force and effect.

§ 78-6. Fees.

Fees assessable by the Borough of Mahanoy City for the administration and enforcement undertaken pursuant to this chapter and the code shall be established by Borough Council of the Borough of Mahanoy City by resolution from time to time.

§ 78-7. Effective date.

This chapter shall become effective July 8, 2004.

Chapter 80

CREEKS AND DRAINS

§ 80-1. Deposits in creeks prohibited.

§ 80-2. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 10-20-08 as Ord. No. 9, approved 10-26-08. Section 80-2 amended at time of adoption of Code; see Ch.1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Sewers — See Ch. 159.

§ 80-1. Deposits in creeks prohibited.

No persons or person shall put, place or deposit any coal dirt, coal ashes or any other substance or materials into or in the Mahanoy Creek or the North Mahanoy Creek or their tributaries.

§ 80-2. Violations and penalties.¹

Any person or persons violating this chapter, for each and every violation thereof, shall, upon judgment against him, her or them therefor, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 83

CURFEW

- § 83-1. Hours of curfew established.
- § 83-2. Duty of parent or guardian.
- § 83-3. Delivery of minor to home; proceedings.
- § 83-4. Violations and penalties.
- § 83-5. Severability.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 10-16-1974 as Ord. No. 374, approved 10-31-1974. Section 83-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Loitering — See Ch. 131.

§ 83-1. Hours of curfew established. [Amended 9-10-1996 by Ord. No. 96-8, approved 9-10-1996]

- A. Evening curfew. It shall be unlawful for any person under eighteen (18) years of age to be or remain in or upon any of the public highways or streets of the Borough of Mahanoy City at night after the hour of 10:00 p.m., Sunday through Thursday of each week, and after the hour of 11:00 p.m., Friday and Saturday of each week, unless such person shall be accompanied by a parent, guardian or other person having the legal custody of said minor person or unless said minor person is in the performance of an errand directed by said parent, guardian or other person having the care or custody of said minor person, or unless the employment

of such minor person makes it necessary for him or her to be upon said public highway or street during the nighttime after said specified hours; provided that this exception shall not apply when the person under age shall be playing or unnecessarily loitering in or upon said public streets, whether alone or accompanied by a parent, guardian or any other person or persons whatsoever.

B. Daytime curfew.

- (1) It shall be unlawful for any child of compulsory school age enrolled in any elementary or secondary school to be or remain in or upon any public street, alley, highway, park or other public place, or in any enclosure or vehicle which is on or in a close proximity to any such street, alley, highway, park or public area in the Borough of Mahanoy City between the hours of 9:00 a.m. and 2:30 p.m. on any day on which school is in session, unless such child is on a scheduled vacation or holiday observed by the school in which the child is enrolled, or that child has permission to be absent from school or to be in a public place from an authorized school official. In the case of a child educated through a home school program pursuant to the Pennsylvania Code, § 1327.1, a parent shall be deemed to be an authorized official.
- (2) It shall be unlawful for any parent, guardian or person in parental relation, having control or charge of any child of compulsory school age to permit such child to be or remain in or upon any public street, alley, highway, park or other public place, or in any enclosure or vehicle which is on or in close proximity to any such street, alley, highway, park or public place in the Borough of Mahanoy City between the hours of 9:00 a.m. and 2:30 p.m. on any day for which school is in session, unless such child is on a scheduled vacation or holiday observed by the school in which the child is enrolled, or that child has

permission to be absent from school or to be in a public place from an authorized school official. In the case of a child educated through a home school program as set forth above, the parent shall be deemed to be the authorized school official.

- (3) It shall be unlawful for any person to act as an accomplice in violating any of the provisions of this chapter. A person is an accomplice of the child in violation of any provisions of this chapter if, with intent of promoting or facilitating the commission of the offense, that person: solicits the child committed; or aids or agrees or attempts to aid such other person in planning or committing it.

§ 83-2. Duty of parent or guardian.

It shall be unlawful for any parent, guardian or other person having the legal care or custody of any person under eighteen (18) years of age to allow or permit any such child, ward or other person under such age, while in said legal custody, to go or be in or upon any of the public highways or streets of the Borough of Mahanoy City within the time prohibited in § 83-1 unless reasonable necessity therefor exists.

§ 83-3. Delivery of minor to home; proceedings. [Amended 9-10-1996 by Ord. No. 96-8, approved 9-10-1996]

The policemen shall take any child violating § 83-1A regarding evening curfew to the home of the parent, guardian or other person having the legal care and custody of the child, and the police or arresting officer may proceed against said parent, guardian or other person having legal care or being in a parental relationship to the minor.

§ 83-4. Violations and penalties. [Amended 5-5-1981 by Ord. No. 81-3, approved 5-5-1981; 9-10-1996 by Ord. No. 96-8, approved 9-10-1996]

- A. Evening curfew violation. Any person violating any provisions of this chapter relating to the evening curfew shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.) and the cost of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days. In lieu of a fine, community service may be assigned by a District Justice at his discretion.
- B. Daytime curfew violation.
- (1) Offense of the child.
- (a) Any child who shall fail to comply with the provisions of this chapter relating to daytime curfew on a first offense shall be arrested or apprehended, taken into custody and transported to police headquarters for proper identification. After identification has been properly ascertained, it shall be entered into a record kept by the borough. The arresting or apprehending officer shall properly notify the parents, guardian or person in parental relation to the child and, unless requested by such parent, guardian or person in parental relation to the child to place said child in a school other than the public school, the arresting officer shall place said child in the public school in which the child is or should be enrolled, subject to the appropriate disciplinary action, including, but not limited to, in-school suspension.
- (b) Second offense. Any child who shall fail to comply with the provisions of this chapter relating to daytime curfew on a second or succeeding offense shall, upon summary

conviction thereof, be sentenced to pay a fine not to exceed three hundred dollars (\$300.) for each offense, together with costs and, in default of payment of such fine and costs, shall be referred by the District Justice to the Juvenile Court pursuant to the Juvenile Act, 42 Pa. C.S.A. § 6301 et seq. In lieu of a fine, community service may be assigned by a District Justice at the Justice's discretion.

- (2) Offense of the parent. Any parent, guardian or person in parental relation having control or charge of any child of compulsory school age who shall fail to comply with the provisions of the daytime curfew section of this chapter shall, upon summary conviction, be sentenced to pay a fine not exceeding three hundred dollars (\$300.) for each offense, together with costs and, in default of payment of such fine and costs, shall be sentenced to imprisonment not to exceed thirty (30) days. In lieu of a fine, community service may be assigned by a District Justice at the Justice's discretion. The parental violation is separate and apart from any violation of the child.
- (3) Accomplices. Any person found to be an accomplice shall, on summary conviction thereof, be sentenced to pay a fine not exceeding three hundred dollars (\$300.) for each offense, together with costs and, in default of payment of such fine and costs, shall be sentenced to imprisonment not to exceed thirty (30) days. Where the accomplice is a juvenile, the District Justice may, in default of payment, refer the matter to the Juvenile Court pursuant to the Juvenile Act, 42 Pa. C.S.A. § 6301 et seq. In lieu of a fine, community service may be assigned by a District Justice at the Justice's discretion.

§ 83-5. Severability. [Added 9-10-1996 by Ord. No. 96-8, approved 9-10-1996]

If any section, clause, sentence or part of this chapter is for any reason found to be unconstitutional, illegal or invalid, such findings shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter.

Chapter 88

ELECTRICAL STANDARDS

- § 88-1. Adoption of standards.
- § 88-2. Administration.
- § 88-3. Duties of Building Official.
- § 88-4. Right of entry.
- § 88-5. Violations and penalties.
- § 88-6. Effect.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 7-2-68 as Ord. No. 358, approved 7-2-68. Sections 88-1 and 88-5A amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 72.
 Fire prevention — See Ch. 102.
 Mechanical standards — See Ch. 136.

§ 88-1. Adoption of standards.¹

There is hereby adopted by the Borough of Mahanoy City for the purpose of establishing rules and regulations for safe and adequate electrical wiring in all dwellings, buildings and structures, a certain electrical code known as the "National Electrical Code, 1975 Edition," recommended by the National Fire Protection Association, and the same is hereby incorporated and adopted herein by reference.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 88-2. Administration.

The Building Official shall administer the provisions of the Electrical Code.

§ 88-3. Duties of Building Official.

It shall be the duty of the Building Official to enforce all laws relating to safe and adequate wiring and to make necessary inspections.

§ 88-4. Right of entry.

The Building Official, in the discharge of his official duties and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour.

§ 88-5. Violations and penalties.

- A. Any person who shall violate any of the provisions of the code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Borough Building Official or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and non-compliance, respectively, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.) and costs of prosecution, and in default of payment of such fine and costs, to imprisonment in the county jail for not more than thirty (30) days. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when

not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.²

- B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

§ 88-6. Effect.

Nothing in this chapter or in the code hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred, nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this chapter.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 91

ENTERTAINMENT

§ 91-1. License required for shows and exhibitions.

§ 91-2. Issuance of licenses; fees.

§ 91-3. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 4-4-05 as Ord. No. 75, approved 4-4-05. Section 91-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 91-1. License required for shows and exhibitions. [Amended 2-17-20 by Ord. No. 143, approved 2-17-20]

No theatrical exhibition, concert, show, circus, jugglery, dance at which an admission or other fee is charged or other exhibition shall be held, exhibited or given, either in part or in whole, without a license first had and obtained from the Mayor.

§ 91-2. Issuance of licenses; fees. [Amended 2-17-20 by Ord. No. 143, approved 2-17-20; 1-6-53 by Ord. No. 260, approved 1-6-53]

The Mayor is hereby authorized and required to issue licenses for theatrical exhibitions, shows, circuses and other exhibitions to such persons, companies and corporations as shall apply therefor, upon payment to him of the following license fees:

Each circus	\$10.00 per day
Each show under canvas	10.00 per day
Each theatrical exhibition, excluding moving pictures	3.00 per day

All other exhibitions	\$ 3.00 per day
Moving-picture theaters showing moving pictures	10.00 per month, payable monthly

§ 91-3. Violations and penalties.¹

Every person, company or corporation violating any of the provisions of this chapter be punishable for each and every offense by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

EXCAVATIONS IN STREETS

Chapter 93

EXCAVATIONS IN STREETS

- § 93-1. Permit required.
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- § 93-3. Application for permit; requirements for applicant.
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- § 93-10. Permit booklets.
- § 93-11. Resurfacing and excavation fees.
- § 93-12. Payment of fees; waiver.
- § 93-13. Performance bond.
- § 93-14. Method of opening; damage to utility installations.
- § 93-15. Backfilling; restoration.
- § 93-16. Inspections.
- § 93-17. Public service corporations.
- § 93-18. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 9-4-1990 as Ord. No. 90-6,¹ approved 9-4-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Gasoline pumps in streets — See Ch. 116, Art. I.

Poles and wires — See Ch. 149.

Sewer connections — See Ch. 159.

Streets and sidewalks — See Ch. 166.

§ 93-1. Permit required.

It shall be unlawful for any person or persons, firm or firms, association or associations, corporation or corporations, utility or utilities or authority or authorities to make or cause to be made any excavation of any nature whatsoever in any street, avenue, alley or lane within the borough limits without first securing a permit granting authority therefor as hereinafter provided.

§ 93-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT — Any person or persons, firm or firms, association or associations, corporation or corporations, utility or utilities, or authority or authorities applying for and to whom a permit may be issued.

EXCAVATION and EXCAVATIONS — The digging of any trench or excavation through or under the roadway or sidewalk or the cutting into or opening and removal of any of the pavement surfaces of any street, avenue, alley or lane within the borough limits.

¹ Editor's Note: This ordinance also repealed former Ch. 93, Excavations in Streets, adopted 7-8-1969 as Ord. No. 361, approved 7-8-1969, as amended.

§ 93-3. Application for permit; requirements for applicant.

- A. An application for the issuance of a permit shall be filed in the office of the Secretary of the borough upon forms furnished by the borough for that purpose and shall be signed by the applicant. Said application shall set forth the location and purpose of the proposed excavation, the dates between which said excavation is to be open, the length, width and depth of the trench, the area of the roadway surfaces to be removed and the names of all persons interested in or to be benefited by the work to be done.
- B. The applicant shall agree to protect and defend and indemnify and save harmless the borough or officers or agents thereof from all claims, suits, actions and proceedings of every nature and description which may be brought against the borough or officers or agents thereof for or on account of any injuries or damages to persons or public or private property due to any materials or appliances used in the work or by or on account of improper materials or workmanship or for or on account of any accident or any other act, negligence or omissions of said applicant or his agents, servants or employees, and the borough shall not in any way be liable therefor.
- C. The applicant shall agree to pay the entire cost and expense incurred in the replacement of the excavations, and the borough shall at all times have the right and authority to correct any and all omissions in the conduct of the work and have the power to take possession of and to do all the work and charge the expense thereof to the applicant. The expense so charged shall be deducted and paid by said borough out of such moneys as may have been deposited with the borough, and in case such expense shall exceed the sum of deposit with the borough, then the applicant shall pay the amount of the excess to said borough. The applicant shall agree to

restore the street, alley or lane, including proper backfilling and repaving, and to pay the entire cost.

- D. The applicant shall also agree to safeguard and maintain in good order the excavation until such time as the borough may temporarily or permanently restore the street surface and to assume all cost and expense due to defective backfilling for the period of one (1) year after the date of the completion of the excavation, provided that said date does not lie between November 15 and May 1, otherwise to date from the latter date.
- E. The applicant shall further agree to abide by all the terms and conditions of the ordinances under which the permit is granted whether specifically mentioned in the application or not.
- F. No permit shall be granted to any applicant unless said applicant shall have paid to the borough any and all moneys when due to the borough for prior excavations made or for any loss, damages or expense in any manner occasioned by or arising from the excavation of streets, alleys or highways of the borough under prior permit.
- G. The borough may revoke any permit granted to an applicant and order all work to stop should the permittee fail to follow the requirements, specifications and directives set forth in this chapter or in the Borough Code or for failure to perform the work in a safe manner. A permit may be restored if the Borough Engineer or other appropriate borough official deems that the conditions leading to the revocation have been removed or satisfied, but such restoration of a permit may require additional fees for inspection or the like. **[Added 8-13-1996 by Ord. No. 96-7, approved 8-13-1996]**

§ 93-4. Protection of excavations.

- A. Said applicant, during the progress of the work, shall provide and maintain such fences, barriers, "street closed" or "danger" signs, red lights and watchmen as

may be necessary to prevent avoidable accidents to the public and adjoining tenants. The convenience of the public and temporary approaches to and crossings of intersecting streets shall be provided for and kept in good condition where practicable. The sidewalks or portions of the street adjoining the work or its vicinity shall not be littered or obstructed more than necessary, and the drainage gutters and inlets to the stormwater sewers shall at all times be kept clean and unobstructed.

- B. Whenever an improvement project, either public or private, is in progress which involves streets of one-half ($\frac{1}{2}$) block or more, it shall be the duty of the sponsor of said project to post at conspicuous points a billboard at least six (6) feet wide and eight (8) feet high, to be illuminated all night, captioned "Public (or Private) Project, Travel Street (or Streets) at Your Own Risk" and signed by the sponsor.

§ 93-5. General procedures.

- A. Excavation shall be by open-cut from the surface, and no tunneling or drifting will be permitted except by permission and so noted on the permit. The amount of trench opened and also the amount unfilled shall at all times be subject to the decision of the Department. No trench or excavation shall be undercut or have a greater width at the bottom than at the top. In case of slips or slides of the sides of the excavation, the same shall be trimmed to solid earth and the top surface cut back to the limit of the same before any backfilling is commenced. When necessary or required, the sides of a trench shall be sheathed and braced and rendered secure until the construction has been laid therein and the trench refilled. Care shall be taken not to move or disturb other subsurface structures, and in crossing these or running parallel with or near them, they shall be completed. The applicant shall maintain their respective services and shall repair all damage done to

any of said structures. In rock excavation, all drilling and blasting shall be conducted with the greatest possible care and all possible precautions taken to guard against accidents.

- B. All excavations shall be commenced and completed by the use of a reasonable work force working around the clock, or in the alternative, all excavated material shall be removed, and at the cessation of work, suitable steel or wooden plates shall be placed over the excavation in order that traffic can continue over the excavation while it is not being worked on.
- C. In backfilling, only approved crushed-stone screenings, such as are recommended by the Department of Streets of the Borough of Mahanoy City, shall be used. The method of backfilling shall be such as to ensure that the fill is thoroughly compacted. The method or methods used to compact shall be subject to the approval of the borough, which shall have the power to issue regulations as to such method. In all unimproved streets, the surface of the trenches after being filled and settled shall be finished in a most workmanlike manner without needless delay and shall in every respect be equal in quality, character and materials to the street surface existing previous to making the excavation. In all improved streets the crown of the surface must conform to the adjacent street surface until sufficient time has elapsed to warrant the restoration either temporarily or permanently of the pavement surface. All such restorations of pavement surfaces will be made by the borough under existing contracts or by its own forces and the cost thereof charged to the applicant.
- D. In the replacement or restoration of permanent roadway surfaces, the borough shall have the right and authority to cut back the surfaces and supporting base as far as may be deemed necessary to afford a good support upon firm earth or to remove any part of the surface and base which may have become injured by reason of said excavation.

- E. The borough may, at its option, immediately upon the completion by the applicant of the backfilling of a trench, proceed to permanently replace the base of the base and wearing surface or may, within five (5) days from the date of the completion of the backfilling by the applicant or at any time thereafter, temporarily close up or repair the openings in the pavement surface by laying a brick, stone block or other form of pavement until such time as the pavement surface may be permanently restored by the borough, the expense of such temporary restoration of the surface, as well as the correction of any omissions in the backfilling, to be at the expense of the applicant.

§ 93-6. Additional excavation.

In no case shall an applicant open or remove a greater area of surface and at no other location than specified in the original application; provided, however, that if at the time of actually doing the work it should be necessary to open or remove a greater area of surface than originally applied for, the applicant shall first notify and secure, by telephone or otherwise, the consent of the Department to do so, upon the express condition that said applicant shall and will before 12:00 noon of the following business day file a supplementary application for the making of an additional excavation.

§ 93-7. Deposit; inspection fee.

A deposit shall be made by the applicant with the Secretary of the borough to cover the cost of street restoration in the event that the work performed by the applicant is unsatisfactory. This deposit shall be based upon a rate per square foot as affixed by the Borough of Mahanoy City, as set forth subsequently in this section, and said deposit shall be retained by the borough for twelve (12) months from the completion of the work of restoration and replacement. A fee will be paid by the applicant to cover the cost of issuing the permit and inspections of the surface restoration. Said fee is also to be established by the

Secretary of the borough in accordance with procedures subsequently established in this chapter. In all cases where a permit has been issued and the work set forth in such permit has not been done, the same shall be canceled and the deposit fee paid for the same shall be repaid by the borough. Any fee for issuance of the permit shall not be returnable.

§ 93-8. Refund of deposit.

- A. The borough shall, as soon as may be practicable to do so, permanently replace and restore the pavement surfaces in such manner and with materials as specified in § 93-15 of this chapter and shall estimate and charge the cost of making said restoration and the maintenance thereof. **[Amended 8-13-1996 by Ord. No. 96-7, approved 8-13-1996]**
- B. The borough shall by proper voucher refund to said applicant the difference in cost of the replacement of said excavations and the amount deposited, and in case the cost of replacement shall exceed the amounts so deposited, then the excess shall be charged to the applicant. The sums due the borough shall be paid within thirty (30) days from the date of rendering a statement to said applicant, and no permit shall be issued to any applicant until all accounts due the borough on previous permits granted to him and owing shall have been paid.

§ 93-9. Permit fees. [Amended 8-13-1996 by Ord. No. 96-7, approved 8-13-1996]

All applicants for permits required by this chapter shall pay to the borough a fee as set forth below for any opening, drilling or excavation on any public streets:

- A. Fifty cents (\$0.50) per square foot of street opening.
- B. Ten dollars (\$10.) per hole for any type of drilling of an exploratory nature up to six (6) inches in diameter;

drilling over six (6) inches in diameter shall be considered an opening and subject to those requirements.

- C. The minimum fee for any permit shall be fifty dollars (\$50.) and the maximum permit fee chargeable shall be two hundred fifty dollars (\$250.).

§ 93-10. Permit booklets.

- A. Any utility, upon proper notification to the Secretary of the Borough, may secure a booklet of permits. When these utilities require a permit for a street opening they shall:
 - (1) Complete the permit as required.
 - (2) Notify the Secretary of the borough by telephone of the number of the permit, the location of the opening and the size of the opening.
 - (3) Immediately mail the permit to the Secretary of the borough.
- B. The utility shall notify the Secretary of the borough twenty-four (24) hours in advance of the street opening unless said opening is deemed an emergency. In this event, the utility shall so inform the Secretary of the borough.

§ 93-11. Resurfacing and excavation fees. [Amended 8-13-1996 by Ord. No. 96-7, approved 8-13-1996]

- A. Every applicant shall deposit with the Secretary of the borough the following sums for making excavations as herein provided:
 - (1) Blacktop streets or sidewalks: five dollars (\$5.) per square foot of opening, with a minimum of two hundred fifty dollars (\$250.).

- (2) Concrete paved street or sidewalk or concrete base with bituminous surface: eight dollars (\$8.) per square foot of opening, with a minimum of two hundred fifty dollars (\$250.).
 - (3) Drill hole (maximum six-inch diameter): one hundred dollars (\$100.) per hole. All holes with a diameter greater than six (6) inches shall be determined to be excavations subject to the other resurfacing and excavation fees set forth in this section.
 - (4) When street surface is unimproved the sum of three dollars (\$3.) per square foot of opening, with a minimum of two hundred fifty dollars (\$250.).
 - (5) One dollar (\$1.) per square foot per foot of depth shall be added to the above fees for any excavations greater than six (6) feet in depth.
- B. In computing the area for the purpose of determining the amounts to be deposited, the size of the opening shall include the total area within the pavement cut, including the one-foot perimeter.
- C. Fifteen percent (15%) of the total cost for all street excavations shall be charged and retained by the borough for all inspection and supervision. All sidewalk and unimproved deposits are retained by the borough.

§ 93-12. Payment of fees; waiver.

Every applicant prior to commencing excavations shall deposit with the Secretary of the borough the fees required unless a waiver is granted by the Secretary of the borough. In the event a waiver is granted for payment prior to excavation, the applicant shall pay the borough all fees by the tenth of the month following the month in which the excavations were made. It shall be the responsibility of each applicant who receives a waiver to tabulate the size of the opening and

forward the moneys to the borough. These moneys should include permit fees and resurfacing fees.

§ 93-13. Performance bond. [Amended 8-13-1996 by Ord. No. 96-7, approved 8-13-1996]

In the event that an applicant requests a waiver from payments required prior to the excavation, a performance bond, in an amount sufficient for the total cost of all street excavations and restorations contemplated in the applicant's application for a permit, shall be filed with the Secretary of the borough after computation by the Borough Engineer. In no event shall the bond be set at an amount less than two thousand dollars (\$2,000.).

§ 93-14. Method of opening; damage to utility installations.

- A. When an opening is made in the existing paved street, the pavement shall be cut one (1) foot wider around the entire perimeter of the intended excavation.
- B. All lines shall be neat and not irregular.
- C. Prior to the excavation of any opening, the applicant shall contact all utilities having underground installations in the borough in accordance with Pennsylvania Act 287, Prevention of Damage to Underground Utility Lines by Excavation or Demolition.² Any person obtaining a permit for a street opening shall accept full responsibility for any damage caused in any way whatsoever to underground installations other than his own and shall make complete restitution for their repair or replacement.

² Editor's Note: See 73 P.S. § 176 et seq.

§ 93-15. Backfilling; restoration.

- A. All openings or excavations shall be backfilled immediately upon completion of work and in no case shall remain open for a period exceeding twenty-four (24) hours from the completion of repair work, unless otherwise approved by the Chairman of the Street Committee of the borough.
- B. Material excavated from a street opening shall not be used for backfill.
- C. The excavation shall be backfilled with 2A modified aggregate conforming to the Pennsylvania Department of Transportation specifications and compacted with pneumatic or mechanical tampers in eight-inch lifts to within six (6) inches of the existing surface. The last six (6) inches shall be completed with four (4) inches of bituminous concrete base course and two (2) inches of ID2 wearing course. All openings shall be sealed in accordance with Pennsylvania Department of Transportation specifications.
- D. All sidewalks shall be restored with concrete surface approved by the Borough Engineer.
- E. In the event that bituminous material is not available, temporary cold patch conforming to the Pennsylvania Department of Transportation specifications shall be used as a temporary surface only, and it shall be the responsibility of the holder of the permit to maintain the street surface until permanent repairs can be made. If the holder of the permit fails at any time to place sufficient bituminous material as a temporary surface or maintain such temporary bituminous material to a level of the adjacent street surface unaffected by the opening, the borough reserves the right to immediately take over maintenance of such opening and charge the cost thereof in addition to the cost of permanent paving restoration.

- F. Restoration details shall be forwarded to the borough for approval by the Borough Engineer. **[Added 8-13-1996 by Ord. No. 96-7, approved 8-13-1996]**

§ 93-16. Inspections.

Every opening or excavation made in any public street or alley of the borough shall be inspected by an authorized representative of the borough. It shall be the responsibility of the applicant to inform the Secretary of the borough of its excavating and backfilling schedule in order for the borough to properly inspect said opening.

§ 93-17. Public service corporations. [Amended 8-13-1996 by Ord. No. 96-7, approved 8-13-1996; 5-13-1997 by Ord. No. 97-2, approved 5-13-1997]

All public-service corporations desiring to disturb the paving on any borough street shall adhere to all the foregoing provisions in the previous sections with the exception that final street restoration work will not be done by the borough. All restoration work, including application of a wearing surface, shall be accomplished by the public-service corporation. In the event that the Chairman of the Street Committee determines that a substantial area of a street or highway will be disturbed by excavation to be performed by the public-service corporation, the Borough Council may require that the public-service corporation place a one-inch ID2 overlay to cover the entire length and width, that is, from curb to curb of the street disturbed. Any public-service corporation desiring to disturb the paving on any borough street may furnish a properly executed and approved surety company bond conditioned for the faithful compliance with the ordinances of the Borough of Mahanoy City relating to the making of excavations in the streets and highways and regulations made in pursuance thereof, in place of the cash deposit required under § 93-7 of this chapter.

However, the public-service corporation shall be required to pay to the Borough of Mahanoy City an amount equal to fifteen percent (15%) of the applicable resurfacing fees for payment of supervision and inspection by the borough. In the event that any public-service corporation makes a number of openings each year, the amount of the bond shall be forty percent (40%) of the previous year's permit fees, but in no shall it be less than the particular project.

§ 93-18. Violations and penalties.

Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this chapter or of any regulation or requirement pursuant hereto and authorized hereby shall, upon conviction thereof, be ordered to pay a fine of not more than three hundred dollars (\$300.) and, in default of payment of a fine and cost, be imprisoned for no more than ninety (90) days. Each day's violation shall constitute a separate offense.

FEES

Chapter 95

FEES

**ARTICLE I
Schedule of Fees**

- § 95-1. Annual schedule of fees.**
- § 95-2. Previous fees in effect.**

**ARTICLE II
Modification of Fees by Resolution**

- § 95-3. Modification by resolution.**

**ARTICLE III
Fire Department User Fees**

- § 95-4. Purpose.**
- § 95-5. Definitions.**
- § 95-6. Insurance information; reimbursement for services.**
- § 95-7. Emergency response service charges.**
- § 95-8. Billing procedures.**

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Schedule of Fees
[Adopted 12-30-1996 by Ord. No. 96-11,
approved 12-31-1996]

§ 95-1. Annual schedule of fees.

The Borough Council on an annual basis may, no later than December 31 of each year, adopt a resolution setting forth a schedule of fees for all permits, licenses or inspections required by various Borough ordinances and regulations for the following year. The fees set thereby shall be sufficient to defray the actual cost and expense incurred by the Borough in the issuing of such permit or license or conducting the inspection, including but not limited to administration, recordkeeping and the like.

§ 95-2. Previous fees in effect.

Any permit, license or inspection fee previously set forth in the Code of the Borough of Mahanoy City or in a previous resolution shall remain in full force and effect until altered by a subsequent resolution adopted in accordance with this article.

ARTICLE II
Modification of Fees by Resolution
[Adopted 1-11-2005 by Ord. No. 2005-4,
approved 1-11-2005]

§ 95-3. Modification by resolution.

Any and all fees as set forth in the Code of the Borough of Mahanoy City may be increased, decreased or otherwise modified by resolution of the Council of the Borough of Mahanoy City, and it shall not be necessary to amend the ordinance in order to modify the fees set forth in the Code of the Borough of Mahanoy City.

ARTICLE III
Fire Department User Fees
[Adopted 4-14-2009 by Ord. No. 2009-2,
approved 4-14-2009]

§ 95-4. Purpose.

The purpose of this article is to establish user service charges for Fire Department services as described in this article.

§ 95-5. Definitions.

The following terms shall apply in the interpretation and application of this article:

ADMINISTRATIVE EXPENSES — All billing fees, whether done by an agent of the Fire Department or the actual Department. This also includes but is not limited to collection costs and attorney fees when appropriate under the law of the state.

EXCAVATOR — A person who conducts excavation of the earth, concrete structures, and all real property attached thereto.

MOTOR VEHICLE — Any self-propelled vehicle that can operate legally upon public roads and highways and not for operation exclusively upon railroad tracks. It includes any vehicle or motor-trailer combination propelled or drawn by a self-propelled vehicle. This includes semitrailers. It does not include snowmobiles; all-terrain vehicles, non-street-legal bikes or park trailers.

MOTOR VEHICLE OWNER — Any person, firm, association, or corporation owning, operating, or renting a motor vehicle, or having the exclusive use thereof, under a lease or other agreement.

PERSON — An individual, corporation, partnership, the state, a public agency, a local governmental unit,

association, or other business or public entity or a trustee, receiver, assignee, or personal representative of any party.

RAILROAD — Refers to a railroad company. The term includes a person to whom any part of a right-of-way was transferred under the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 701 et seq.).

RIGHT-OF-WAY — The privilege of the immediate use of the highway.

UNDERGROUND PIPELINE UTILITY — An underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute gas, oil, petroleum products, and other similar substances.

§ 95-6. Insurance information; reimbursement for services.

- A. The Fire Department of the Borough of Mahanoy City is hereby authorized to obtain insurance information from the individuals, businesses and institutions who receive services of the Mahanoy City Fire Department for the purpose of billing the same.
- B. Insurance information will be obtained by the Mahanoy City Fire Department for the purpose of billing for services related, but not limited to the incidents set forth in § 95-7 of this article.
- C. It is further provided that the Mahanoy City Fire Department is hereby authorized to seek reimbursement from the appropriate insurance companies, if applicable, for any costs relating to services rendered by the Mahanoy City Fire Department. No resident of the Borough of Mahanoy City shall be billed for any services set forth in § 95-7 of this article. Insurance companies for residents of the Borough of Mahanoy City and any person as defined in this article that is self-insured may

be billed, however, for any services set forth in § 95-7 of this article.

§ 95-7. Emergency response service charges.

A. Vehicle accident.

- (1) Any incident response to an accident involving a motor vehicle where the Fire Department renders aid, provides assistance, or otherwise improves the conditions of the people or objects involved. This would include, but not be limited to:
 - (a) Extrication.
 - (b) Medical care.
 - (c) Absorbing liquid spills.
 - (d) Cleanup.
 - (e) Vehicle system safety.
 - (f) Vehicle stabilization.
 - (g) Traffic control.
- (2) An invoice for the costs will be sent to the motor vehicle owner or owner's insurance company. The invoice amount will follow the reasonable costs as incurred by the responding Fire Department which includes the man hours, supplies, equipment used, and administrative costs related to the response.
- (3) If there is more than one motor vehicle involved for which Fire Department service is provided, each motor vehicle owner or insurer may be invoiced for the service charges. Each party will be jointly and severally liable to the Fire Department.

B. Fires along a railroad right-of-way or operating property.

- (1) Any incident response to a fire, fire hazard emergency, or any accident that requires Fire Department response caused by a railroad locomotive,

rolling stock, or by railroad right-of-way employees or operating property.

- (2) An invoice will be sent to the railroad responsible for the railroad right-of-way or operating property. The invoice amount will follow the reasonable costs as incurred by the responding Fire Department which includes the man hours, supplies, equipment used, and administrative costs related to the response.

C. Grass fires within trunk highway right-of-way.

- (1) Any incident response to a grass fire within the right-of-way of a state or federal highway or outside of the right-of way of a state or federal highway if the fire originated within the right-of-way of said highway.
- (2) An invoice will be sent to the Commissioner of Transportation. The invoice amount will follow the reasonable costs as incurred by the responding Fire Department which includes the man hours, supplies, equipment used, and administrative costs related to the response.

D. Technical rescue.

- (1) Any incident response to a rescue on the water, ice, confined space, trench, mountain or hill where specialized equipment and training are required and where the Fire Department renders aid, provides assistance, or otherwise improves the conditions of the people involved.
- (2) An invoice will be sent to the persons, corporation, or business owner receiving rescue service. The invoice amount will follow the reasonable costs as incurred by the responding Fire Department which includes the man hours, supplies, equipment used, and administrative costs related to the response.

E. Underground pipeline utility breaks.

- (1) Any incident response to an underground pipeline utility break if caused by an excavator or person other than a homeowner or resident of the fire district.
- (2) An invoice will be sent to the excavator(s) or person(s) responsible for the pipeline utility break. The invoice amount will follow the reasonable costs as incurred by the responding Fire Department which includes the man hours, supplies, equipment used, and administrative costs related to the response.

F. Hazardous material.

- (1) Any incident response to the release of hazardous material from its container, or the threat of a release of a hazardous material from its container, possible chemical reaction, or other potential emergency as the result of a hazardous material where the Fire Department renders aid, provides assistance, or otherwise improves the conditions of the people or objects involved.
- (2) An invoice will be sent to the person or persons responsible for the hazardous material or transportation of the hazardous material. Each party will be jointly and severally liable to the Fire Department for the related cost. The invoice amount will follow the reasonable costs as incurred by the responding Fire Department which includes the man hours, supplies, equipment used, and administrative costs related to the response.

G. Fire as the result of negligence while conducting illegal activities

- (1) Any incident response to a fire that resulted from an act of negligence as defined by state criminal code during the commission of any class felony or Class A misdemeanor as defined by the state criminal code.

- (2) Any incident response to a fire that resulted from illegal burning within a municipality that has specifically banned such activity.
 - (3) An invoice will be sent to the person responsible for the negligent fire. The invoice amount will follow the reasonable costs as incurred by the responding Fire Department which includes the man hours, supplies, equipment used, and administrative costs related to the response.
- H. False alarms. Any person, defined as any individual, or any business entity or corporation or any agents or employees thereof, shall be allowed two free false alarm responses per calendar year, if said false alarms are given in the reasonable and good faith belief that an emergency does exist. A third false alarm in a calendar year from the same person, including the same business entity or corporation or any agents or employees thereof, shall incur a charge of \$250 for the call, regardless of whether the said third false alarm is in good faith or not. Any person, to include any business entity or corporation or any agents or employees thereof, who makes a false alarm in bad faith, meaning he or she knew or should have known that the alarm was false, shall be charged a call charge of \$250 in all cases.

§ 95-8. Billing procedures.

- A. The first billing shall be on or about the 15th of each month for all reports submitted for billing in the prior thirty-day period.
- B. Terms:
 - (1) Thirty days for the first invoice which is sent to the responsible parties.
 - (2) Second notice, if the invoice has not been settled in 30 days.
 - (3) Court proceedings will be initiated after 60 days.

Chapter 96

FIRE APPARATUS

- § 96-1. Meddling with fireplugs.
- § 96-2. Damaging fire apparatus.
- § 96-3. Use of fire hose for private purpose.
- § 96-4. Taking fire apparatus outside borough.
- § 96-5. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 10-20-08 as Ord. Nos. 16, 20, 22 and 32 respectively, approved 10-21-08. Amended at time of adoption of Code; see Ch.1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fire Department -- See Ch. 13.
Fire prevention -- See Ch. 102.

§ 96-1. Meddling with fireplugs.

No person or persons shall interfere with or meddle with or use any of the fireplugs within the limits of the borough, excepting firemen in the discharge of their duties, without the written consent of at least two (2) members of the Fire and Water Committee.

§ 96-2. Damaging fire apparatus.

No person shall willfully or maliciously cut, injure, destroy or deface any hose, fire engine or any part of any fire alarm system of the borough or any apparatus belonging to the borough.

§ 96-3. Use of fire hose for private purpose.

No person shall use any hose for any private purpose without the consent of the Fire and Water Committee first had and obtained.

§ 96-4. Taking fire apparatus outside borough.

No portion of the fire apparatus shall at any time be taken outside the limits of the borough without the permission first had and obtained of Borough Council or of at least three (3) members of the Fire and Water Committee, who may in their discretion require a guaranty for possible damage to such fire apparatus.

§ 96-5. Violations and penalties.

Any person or persons who shall violate any of the provisions of this chapter shall, upon conviction thereof, be punishable for each offense by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

Chapter 99

FIREARMS AND FIREWORKS

- § 99-1. Discharge of firearms; penalty.
- § 99-2. Selling or discharging fireworks; penalty.
- § 99-3. Discharge of BB guns, pellet guns, air rifles and pistols.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 10-20-08 as Ord. No. 21, approved 10-21-08. Sections 99-1 and 99-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 102.

- § 99-1. Discharge of firearms; penalty. [Amended 5-5-81 by Ord. No. 81-3]

Any person firing or causing to be fired any kind of firearms within the borough shall, upon judgment against him for such offense, be punishable for each offense by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

- § 99-2. Selling or discharging fireworks; penalty. [Amended 5-5-81 by Ord. No. 81-3]

Any person or persons selling or exposing for sale, or any person or persons firing or causing to be fired, within the Borough of Mahanoy City, any firecrackers, squibs, rockets or like ex-

plosive devices, shall, upon judgment against him for such offense, be punishable for each offense by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

§ 99-3. Discharge of BB guns, pellet guns, air rifles and pistols.
[Added 9-4-84 by Ord. No. 84-1, approved 9-4-84]

- A. The discharge of BB guns, pellet guns, air rifles or pistols, gas guns or any like device capable of propelling any projectile is hereby prohibited within the confines of the Borough of Mahanoy City.
- B. Penalty. Any person or persons violating this section may be fined a maximum of three hundred dollars (\$300.) upon conviction thereof and costs of prosecution and/or shall be subject to imprisonment in the county jail for not more than thirty (30) days.

FIRE PREVENTION

Chapter 102

FIRE PREVENTION

ARTICLE I

Standards for Regulation

- § 102-1. Adoption of standards.
- § 102-1.1. Additions, insertions and changes.
- § 102-1.2. Hearing Board; costs for transcription of proceedings.
- § 102-2. Interpretation.

ARTICLE II

Chimneys, Flues and Fireplaces

- § 102-3. Use of terms.
- § 102-4. Conformity required.
- § 102-5. Noncombustible materials required.
- § 102-6. Permit required; application.
- § 102-7. Inspection of completed work; approval.
- § 102-8. Prerequisites for permit.
- § 102-9. Supervision.
- § 102-10. Definitions.
- § 102-11. When chimney inspection required.
- § 102-13. Inspection prior to issuance of permit.
- § 102-14. Permit fee.
- § 102-15. Appointment of Chimney Inspector.
- § 102-16. Violations and penalties.

§ 102-17. Additional remedies.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City: Art. I, 5-4-1976 as Ord. No. 384, approved 5-12-1976; Art. II, 12-5-1958 as Ord. No. 289, approved 12-5-1958. Sections 102-1 and 102-16 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 15.
Firearms and fireworks — See Ch. 99.
Furnaces and fuel oil — See Ch. 108.
Gasoline and liquefied gas — See Ch. 116.
Housing standards — See Ch. 121.
Woodburning stoves and chimneys — See Ch. 184.

ARTICLE I**Standards for Regulation**

[Adopted 5-4-1976 as Ord. No. 384, approved 5-12-1976]

§ 102-1. Adoption of standards. [Amended 5-5-1981 by Ord. No. 81-3, approved 5-5-1981; 11-14-1995 by Ord. No. 95-4, approved 11-14-1995]

A certain document, three (3) copies of which are on file in the office of the Borough of Mahanoy City Secretary of the Borough of Mahanoy City, County of Schuylkill, being marked and designated as the current "BOCA Basic Fire Prevention Code" and all subsequent editions, as published by Building Officials and Code Administrators International, Inc., is hereby adopted as the Fire Prevention Code of the Borough of Mahanoy City of Schuylkill County in the State of Pennsylvania, for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of the current BOCA Basic Fire Prevention Code and all subsequent editions are hereby referred to, adopted and made a part hereof as if fully set out in this Article.

§ 102-1.1. Additions, insertions and changes. [Added 11-14-1995 by Ord. No. 95-4, approved 11-14-1995]

- A. All references to a Hearing Board to hear appeals from the orders of the Code Enforcement Officer are hereby deleted in their entirety, except that the notice of the violation, manner of appeal and time in which to file an appeal shall be retained.

§ 102-1.2. Hearing Board; costs for transcription of proceedings. [Added 11-14-1995 by Ord. No. 95-4, approved 11-14-1995]

- A. A Hearing Board shall be appointed by Borough Council to hear appeals of orders of the Code Enforcement Officer. An appeal must be in writing and presented by the appellant to the Borough Secretary within ten (10) days of service of the order by the Code Enforcement Officer upon the aggrieved party or posting such an order on the affected premises, whichever first occurs. Other rules of procedure may be adopted by the Board or the Borough Council by resolution. The Board shall have the authority to confirm, vacate, reverse, remand or modify the order of the Code Enforcement Officer. A written decision of the Board shall be made and issued within the time period prescribed elsewhere in the BOCA Code or under state law, whichever is less.
- B. The Hearing Board shall consist of the Borough Council of the Borough of Mahanoy City or a separate panel consisting of not fewer than three (3) individuals who may be members of the Borough Council or other such individuals as may be appointed by the Borough Council to hear such appeals. A quorum of the Board of Appeals shall consist of any three (3) members and shall be sufficient to hear appeals and render decisions. The appointments may be made at the time of reorganization of Council or at such time as vacancies may occur. Any individuals appointed to the Hearing Board shall serve

terms of two (2) years from the date of the appointment, except that an individual appointed to fill a vacancy shall serve until the completion of the term of the person whose initial vacancy is being filled. Said members shall serve without compensation, except that reasonable expenses incurred by the Board shall be reimbursed by the borough.

- C. Normally no transcript should be made of the proceedings unless requested by the appellant, and, therefore, in that case, the appellant shall be responsible for all costs of the transcript and the stenographer and for an advancement of such costs if deemed necessary by the Board.

(Cont'd on page 10203)

§ 102-2. Interpretation.

Nothing in this Article or in the Fire Prevention 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 accrued or existing, under any act or ordinances hereby repealed, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Article.

ARTICLE II**Chimneys, Flues and Fireplaces**

[Adopted 12-5-58 as Ord. No. 289, approved 12-5-58]

§ 102-3. Use of terms.

The word "person" as used in this Article shall mean any natural person or persons, association, partnership, firm or corporation.

§ 102-4. Conformity required.

No person shall construct any chimney, flue or vent in any building in the Borough of Mahanoy City unless the type, manner, plan and size of such construction and materials used therein conform to provisions of this Article.

§ 102-5. Noncombustible materials required. [Amended 2-2-65 by Ord. No. 327, approved 2-2-65]

No person shall erect or cause to be erected or constructed any chimney, flue or vent in any building in the Borough of Mahanoy City which is not composed entirely of brick, stone, concrete, iron or other noncombustible material and lined with terra-cotta flue lining of a size which shall conform to the specifications prescribed by the manufacturer of the heating unit to which the chimney, flue or vent shall be connected, and which shall also be inspected and approved by the Borough Chimney Inspector as safe for its intended use.

§ 102-6. Permit required; application.

No construction herein permitted shall be erected without an official permit issued for such construction by the Borough Chimney Inspector of the Borough of Mahanoy City. Before such permit shall be granted and issued by the Borough Chimney Inspector, the party desiring to construct a chimney, flue or fireplace shall apply for a permit in writing on an appropriate form supplied by the borough, together with a sketch in detail showing the exact type, manner, plan and size of the proposed chimney, flue or fireplace construction; and the construction thereof shall be such that will, in the opinion of the Borough Chimney Inspector, eliminate all or any danger or risk of fire hazard.

§ 102-7. Inspection of completed work; approval.

Upon the completion of the work permitted under the terms and provisions of this Article, the Borough Chimney Inspector shall test and inspect the completed work, and when approved by him as having been completed in conformity with law and ordinance, he shall issue a certificate signifying such approval and indicating the use or uses to which the structure may thereafter be put and to what extent.

§ 102-8. Prerequisites for permit.

The Borough Chimney Inspector shall issue no official permit for chimney, flue or fireplace construction unless the same is permitted by and conforms to this Article.

§ 102-9. Supervision.

The application and general supervision of this Article shall be vested in the Borough Chimney Inspector.

§ 102-10. Definitions. [Amended 2-2-65 by Ord. No. 327, approved 2-2-65]

As used in this Article, the following terms shall have the meanings indicated:

COAL STOKER — Any automatic or mechanical coal heating unit or coal stoking unit or attachment thereto containing a blower or like device that increases the flow of air into the chimney beyond its normal or natural flow.

GAS HEATING DEVICE — Any heating unit, furnace, device or mechanism which provides heat for a building by the use of gas or any gaseous substance, product or derivative as a fuel.

OIL HEATING DEVICE — Any heating unit, furnace, device or mechanism which provides heat for a building by the use of oil or other petroleum product or derivative as a fuel.

§ 102-11. When chimney inspection required. [Amended 2-2-65 by Ord. No. 327, approved 2-2-65]

No person may install a coal stoker, oil heating device or gas heating device within any building in the Borough of Mahanoy City unless the chimney, flue or vent to be used for such coal stoker, oil heating device or gas heating device shall first be inspected and approved by the Borough Chimney Inspector as safe for such use.

§ 102-12. Application for permit for installation of certain heating devices. [Amended 2-2-65 by Ord. No. 327, approved 2-2-65]

Before a coal stoker, oil heating device or gas heating device may be installed in any building in the Borough of Mahanoy City, the person desiring to make such installation shall first apply to the Borough Chimney Inspector for a permit for such installation.

§ 102-13. Inspection prior to issuance of permit. [Amended 2-2-65 by Ord. No. 327, approved 2-2-65]

No installation of a coal stoker, oil heating device or gas heating device shall be made in any building in the Borough of Mahanoy

City unless a permit shall be issued therefor by the Borough Chimney Inspector. He shall issue such permit only after inspection of the chimney, flue or vent to which the coal stoker, oil heating device or gas heating device is to be connected and a determination by him that such chimney, flue or vent is properly and safely constructed in accordance with the provisions of this Article and is free of fire hazard.

§ 102-14. Permit fee. [Amended 8-4-81 by Ord. No. 81-5]

For each permit issued by the Borough Chimney Inspector under the provisions of this Article, a fee of five dollars (\$5.) shall be paid to the Borough of Mahanoy City to meet the expense incident to the inspections herein required.

§ 102-15. Appointment of Chimney Inspector.

Borough Council shall appoint a Borough Chimney Inspector and shall determine and fix his compensation. Said Borough Chimney Inspector shall be fully qualified and competent for the purposes herein provided.

§ 102-16. Violations and penalties. [Amended 5-5-81 by Ord. No. 81-3]

Any person who shall violate a provision of this Article or fail to comply therewith or with any of the requirements thereof shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.) and costs of prosecution and, in default of the payment thereof, shall undergo imprisonment in the county jail for not more than thirty (30) days.

§ 102-17. Additional remedies.

The imposition of the penalties herein prescribed shall not preclude the Borough Solicitor from instituting an appropriate action or proceeding to prevent an unlawful erection, con-

struction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct, business or use in or about any premises.

FLOODPLAINS

Chapter 103

FLOODPLAINS

ARTICLE I General Provisions

- § 103-1. Intent.
- § 103-2. Applicability.
- § 103-3. Abrogation and greater restrictions.
- § 103-4. Warning and disclaimer of liability.

ARTICLE II Administration

- § 103-5. Building permits required.
- § 103-6. Issuance of building permit.
- § 103-7. Application procedures and requirements.
- § 103-8. Review of application.
- § 103-9. Changes to permit prohibited without approval.
- § 103-10. Issuance and display of placard.
- § 103-11. Time limits; extensions.
- § 103-12. Inspection; revocation of permit.
- § 103-13. Fees.
- § 103-14. Enforcement.
- § 103-15. Appeals.

MAHANAY CITY CODE

ARTICLE III
Identification of Floodplain Areas

- § 103-16. Identification.
- § 103-17. Basis for determination.
- § 103-18. Changes in identified floodplain areas.
- § 103-19. Boundary disputes.

ARTICLE IV
General Technical Requirements

- § 103-20. General provisions.
- § 103-21. Design and construction standards.
- § 103-22. Development which may endanger human life.
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ARTICLE V
Activities Requiring Special Permits

- § 103-24. Enumeration of activities.
- § 103-25. Application review procedures.
- § 103-26. Special technical requirements.

ARTICLE VI
Existing Structures in Identified Floodplain Areas

- § 103-27. Conditions for continuance.

ARTICLE VII
Variances

- § 103-28. Grant of relief.

§ 103-29. Procedures and conditions.

ARTICLE VIII
Definitions

§ 103-30. Word usage; definitions.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 7-6-82 as Ord. No. 825, approved 7-6-82. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 72.

ARTICLE I
General Provisions

§ 103-1. Intent.

The intent of this chapter is to:

- A. Promote the general health, welfare and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units and its residents by preventing excessive development in areas subject to flooding.

§ 103-2. Applicability.

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any

construction or development anywhere within the Borough of Mahanoy City unless a building permit has been obtained from the Building Permit Officer.

- B. A building permit shall not be required for minor repairs to existing buildings or structures.
- C. All building permits which are applied for and which do not pertain to alterations to structures or other development within the floodplain shall be governed by the provisions of Chapter 72.¹ This chapter applies only to structures or other development located within the floodplain. [Amended 1-4-83 by Ord. No. 83-2, approved 1-4-83]

§ 103-3. Abrogation and greater restrictions.

This chapter supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive.

§ 103-4. Warning and disclaimer of liability.

- A. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside any identified floodplain area or that land uses permitted within such areas will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of the Borough of Mahanoy City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

¹ Editor's Note: Chapter 72 is entitled "Building Construction."

ARTICLE II
Administration

§ 103-5. Building permits required. [Amended 1-4-83; by Ord. No. 83-2, approved 1-4-83]

Building permits shall be required before any construction or development is undertaken within any area of the Borough of Mahanoy City. The following shall pertain to building permits sought for construction or alterations to buildings or other development within the designated floodplain.

§ 103-6. Issuance of building permit.

- A. The Building Permit Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this chapter and all other applicable codes and ordinances.
- B. Prior to the issuance of any building permit, the Building Permit Officer shall review the application for permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Stream Act (Act 1937-394, as amended);² and the United States Clean Water Act, Section 404, 33 U.S.C. § 1334. No permit shall be issued until this determination has been made.
- C. No encroachment, alteration or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough of Mahanoy City and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management. In addition, the Federal Insurance Administrator and Pennsylvania

² Editor's Note: See 35 P.S. § 750.1 et seq., 32 P.S. § 693.1 et seq. and 35 P.S. § 691.1 et seq., respectively.

Department of Community Affairs, Bureau of Community Planning, shall be notified by the Borough of Mahanoy City prior to any alteration or relocation of any water-course.

§ 103-7. Application procedures and requirements.

A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Borough of Mahanoy City. Such application shall contain the following:

- (1) Name and address of the applicant.
- (2) Name and address of the owner of the land on which the proposed construction is to occur.
- (3) Name and address of the contractor.
- (4) Site location.
- (5) Listing of other permits required.
- (6) Brief description of the proposed work and the estimated cost.
- (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. Information to be provided.

- (1) If any proposed construction or development is located entirely or partially within any identified floodplain area, the applicant for a building permit shall provide all the necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine that:
 - (a) All such proposals are consistent with the need to minimize flood damage and conform to the requirements of this chapter and all other applicable codes and ordinances;

- (b) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (2) Applicants shall file the following minimum information, plus any other pertinent information (e.g., any or all of the technical information contained in Subsection C) as may be required by the Building Permit Officer to make the above determination:
- (a) A completed building permit application form.
 - (b) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - [1] North arrow, scale and date.
 - [2] Topographic contour lines, if available.
 - [3] All property and lot lines, including dimensions, and the size of the site expressed in acres or square feet.
 - [4] The location of all existing and proposed buildings, structures and other improvements, including the location of any existing or proposed subdivision and land development.
 - [5] The location of all existing streets, drives, and other accessways.
 - [6] The location of any existing bodies of water or watercourses, identified floodplain areas and, if available, information pertaining to the floodway and the flow of water, including direction and velocities.
 - (c) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

- [1] The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929.
 - [2] The elevation of the one-hundred-year flood.
 - [3] If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one-hundred-year flood.
 - [4] Detailed information concerning any proposed floodproofing measures.
- (d) The following data and documentation:
- [1] Detailed information needed to determine compliance with § 103-21F, Storage, and § 103-22, Development which may endanger human life, including:
 - [a] The amount, location and purpose of any materials or substances referred to in §§ 103-21F and 103-22 which are intended to be used, produced, stored or otherwise maintained on site.
 - [b] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 103-22 during a one-hundred-year flood.
 - [2] The appropriate component of the Department of Environmental Resources' Planning Module for Land Development.
 - [3] Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources to implement and maintain erosion and sedimentation control.

C. Applicants for special permits shall provide five (5) copies of the following items:

- (1) A written request, including a completed building permit application form.
- (2) A small scale map showing the vicinity in which the proposed site is located.
- (3) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - (a) North arrow, scale and date.
 - (b) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of two (2) feet.
 - (c) All property and lot lines, including dimensions, and the size of the site expressed in acres or square feet.
 - (d) The location of all existing streets, drives, other accessways and parking areas, with information concerning widths, pavement types and construction and elevations.
 - (e) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting or affected by the proposed activity or development.
 - (f) The location of the floodplain boundary line, information and spot elevations concerning the one-hundred-year flood elevations and information concerning the flow of water, including direction and velocities.
 - (g) The location of all proposed buildings, structures, utilities and any other improvements.

- (h) Any other information which the municipality considers necessary for adequate review of the application.
- (4) Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at a suitable scale, showing the following:
- (a) Sufficiently detailed architectural or engineering drawings, including floor plans, sections and exterior building elevations, as appropriate.
 - (b) For any proposed building, the elevation of the lowest floor, including basement, and, as required, the elevation of any other floor.
 - (c) Complete information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with the one-hundred-year flood.
 - (d) Detailed information concerning any proposed floodproofing measures.
 - (e) Cross-section drawings for all proposed streets, drives, other accessways and parking areas, showing all rights-of-way and pavement widths.
 - (f) Profile drawings for all proposed streets, drives and vehicular accessways, including existing and proposed grades.
 - (g) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems and any other utilities and facilities.
- (5) The following data and documentation:
- (a) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents.
 - (b) Certification from a registered professional engineer, architect or landscape architect that the

proposed construction has been adequately designed to protect against damage from the one-hundred-year flood.

- (c) A statement, certified by a registered professional engineer, architect, landscape architect or other qualified person, which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a one-hundred-year flood, including a statement concerning the effects such pollution may have on human life.
- (d) A statement, certified by a registered professional engineer, architect or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one-hundred-year flood elevations and flows.
- (e) A statement, certified by a registered professional engineer, architect or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the one-hundred-year flood elevation and the effects such materials and debris may have on one-hundred-year flood elevations and flows.
- (f) The appropriate component of the Department of Environmental Resources' Planning Module for Land Development.
- (g) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources to implement and maintain erosion and sedimentation control.
- (h) Any other applicable permits, such as but not limited to a permit for any activity regulated by the Department of Environmental Resources under Section 302 of Act No. 1978-166.³

³ Editor's Note: See 32 P.S. § 679.302.

- (i) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one-hundred-year flood.

§ 103-8. Review of application.

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g., Planning Commission, Municipal Engineer, etc.) for review and comment.

§ 103-9. Changes to permit prohibited without approval.

After the issuance of a building permit by the Building Permit Officer, no changes of any kind shall be made to the application permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Building Permit Officer. Requests for any such change shall be in writing and shall be submitted by the applicant to Building Permit Office for consideration.

§ 103-10. Issuance and display of placard.

In addition to the building permit, the Building Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and shall be signed by the Building Permit Officer.

§ 103-11. Time limits; extensions.

- A. Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time

extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation for basement, footings, piers or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings or the installation of sewer, gas and water pipes or electrical or other service lines from the street.

- B. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

§ 103-12. Inspection; revocation of permit.

- A. During the construction period, the Building Permit officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable borough laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Building Permit Officer shall have the authority to enter any building, structure, premises or development in the identified flood-prone area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this chapter.
- C. In the event that the Building Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such fact to the Borough Council for whatever action it considers necessary.
- D. A record of all such inspections and violations of this chapter shall be maintained.

§ 103-13. Fees.

Applications for a building permit shall be accompanied by a fee, payable to the Borough of Mahanoy City, based upon the estimated cost of the proposed construction, as determined by the Building Permit Officer, at the following rates:

Estimated Cost	Fee
\$ 0.00 to \$200.00	\$0.00
\$201.00 to \$1,000.00	5.00
Each additional \$1,000.00 or part thereof beyond the first \$1,000.00	1.00

§ 103-14. Enforcement.

A. Notices. Whenever the Building Permit Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter or of any regulation adopted pursuant thereto, the Building Permit Officer shall give notice of such alleged violation as hereinafter provided. Such notice:

- (1) Shall be in writing.
- (2) Shall include a statement of the reasons for its issuance.
- (3) Shall allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires.
- (4) Shall be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state.

(5) Shall contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter.

- B. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this chapter or who fails or refuses to comply with any notice, order or direction of the Building Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to the Borough of Mahanoy City of not less than twenty-five dollars (\$25.) nor more than three hundred dollars (\$300.), plus costs of prosecution. In default of such payment, such person shall be imprisoned in the county prison for a period not to exceed ten (10) days. Each day during which any violation of this chapter continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of or noncompliance with this chapter shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered or relocated in noncompliance with this chapter may be declared by the Borough Council to be a public nuisance and abatable as such.

§ 103-15. Appeals.

- A. Any person aggrieved by an action or decision of the Building Permit Officer concerning the administration of the provisions of this chapter may appeal to the Borough Council. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Building Permit Officer.
- B. Upon receipt of such appeal, the Borough Council shall set a time and place, within not less than ten (10) nor more

than thirty (30) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

- C. Any person aggrieved by any decision of the Borough Council may seek relief therefrom by appeal to court, as provided by the laws of this commonwealth, including the Pennsylvania Floodplain Management Act.

ARTICLE III Identification of Floodplain Areas

§ 103-16. Identification.

The identified floodplain area shall be any area of the Borough of Mahanoy City subject to the one-hundred-year flood, which is identified as a special flood hazard area (Zone A) on the Flood Hazard Boundary Map (FHBM) as issued by the Federal Insurance Administration dated May 14, 1976, as amended.

§ 103-17. Basis for determination.

- A. For the purposes of this chapter, the one-hundred-year flood elevation shall be used as the basis for regulation. To determine the one-hundred-year flood elevation, the elevation at a given point on the boundary of the identified floodplain area which is nearest the construction site in question will be used. In helping to make this necessary elevation determination, other sources of data, where available, shall be used, such as:
- (1) Corps of Engineers, Floodplain Information Reports.
 - (2) United States Geological Survey, Flood-Prone Quadrangles.
 - (3) United States Department of Agriculture, Soil Conservation Service, County Soil Surveys (Alluvial Soils), or P.S. 566, Flood Information.
 - (4) Pennsylvania Department of Environmental Resources, Flood Control Investigations.

(5). Known high-water marks from past floods.

(6) Other sources.

B. In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Mahanoy City.

§ 103-18. Changes in identified floodplain areas.

The identified floodplain area may be revised or modified by the Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

§ 103-19. Boundary disputes.

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Schuylkill County Planning Commission, and any party aggrieved by this decision may appeal to the Borough Council. The burden of proof shall be on the appellant.

ARTICLE IV General Technical Requirements

§ 103-20. General provisions.

A. In the identified floodplain area, the development and/or use of any land shall be permitted, provided that the development and/or use complies with the restrictions and

requirements of this chapter and all other applicable codes and ordinances in force in the municipality.

- B. Within any identified floodplain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top of the bank of any watercourse, unless a permit is obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.
- C. Within any identified floodplain area, the elevation of the lowest floor, including basement, of any new or substantially improved residential structure shall be one and one-half ($\frac{1}{2}$) feet or more above the one-hundred-year flood elevation.
- D. Within any identified floodplain area, the elevation of the lowest floor, including basement, of any new or substantially improved nonresidential structure shall be one and one-half ($1\frac{1}{2}$) feet or more above the one-hundred-year flood elevation or be floodproofed up to that height. Any structure, or part thereof, which will not be completely or adequately elevated, shall be floodproofed in accordance with the provisions of this Article. Additional information may be obtained from the publication entitled "Floodproofing Regulations" (United States Army Corps of Engineers, June 1972).

§ 103-21. Design and construction standards.

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

- A. Fill. If fill is used, it shall:
 - (1) Extend laterally at least fifteen (15) feet beyond the building line from all points.
 - (2) Consist of soil or small rock materials only; sanitary landfills shall not be permitted.

- (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring or settling.
 - (4) Be no steeper than one (1) vertical to two (2) horizontal, unless substantiated data justifying steeper slopes are submitted to and approved by the Building Permit Officer.
 - (5) Be used to the extent to which it does not adversely affect adjacent properties.
- B. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. Water and sanitary sewer facilities and systems.
- (1) All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
 - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
 - (3) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it or contamination from it during a flood.
- D. Other utilities. All other utilities, such as gas lines and electrical and telephone systems shall be located, elevated, where possible, and constructed to minimize the chance of impairment during a flood.
- E. Streets. The finished elevation of all new streets shall be no more than one (1) foot below the regulatory flood elevation.

- F. Storage. All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal or plant life and not listed in § 103-22, Development which may endanger human life, shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible.
- G. Placement of buildings and structures. All buildings and structures shall be designed, located and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- H. Anchoring.
- (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse or lateral movement.
 - (2) All air ducts, large pipes, storage tanks and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- I. Floors, walls and ceilings.
- (1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
 - (2) Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
 - (3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
 - (4) Windows, doors and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.

J. Paints and adhesives.

- (1) Paints or other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.
- (2) Adhesives used at or below the regulatory flood elevation shall be of marine or water-resistant variety.
- (3) All wooden components (doors, trim cabinets, etc.) shall be finished with a marine or water-resistant paint or other finishing material.

K. Electrical components.

- (1) Electrical distribution panels shall be at least three (3) feet above the one-hundred-year flood elevation.
- (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment. Water heaters, furnaces, air-conditioning and ventilating units and other mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.

M. Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

§ 103-22. Development which may endanger human life.

- A. In accordance with the Pennsylvania Floodplain Management Act⁴ and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply [more

⁴ Editor's Note: See 32 P.S. § 679.101 et seq.

than five hundred fifty (550) gallons or other comparable volume or any amount of radioactive substances] of any of the following dangerous materials or substances on the premises shall be subject to the provisions of this section, in addition to all other applicable provisions:

- (1) Acetone.
 - (2) Ammonia.
 - (3) Benzene.
 - (4) Calcium carbide.
 - (5) Carbon disulfide.
 - (6) Celluloid.
 - (7) Chlorine.
 - (8) Hydrochloric acid.
 - (9) Hydrocyanic acid.
 - (10) Magnesium.
 - (11) Nitric acid and oxides of nitrogen.
 - (12) Petroleum products (gasoline, fuel oil, etc.).
 - (13) Phosphorus.
 - (14) Potassium.
 - (15) Sodium.
 - (16) Sulfur and sulfur products.
 - (17) Pesticides, including insecticides, fungicides, and rodenticides.
 - (18) Radioactive substances, insofar as such substances are not otherwise regulated.
- B. Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A above shall be prohibited within the area measured fifty (50) feet landward from the top of the bank of any watercourse.

- C. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A above shall be elevated or designed and constructed to remain completely dry up to at least one and one-half (1½) feet above the one-hundred-year flood and designed to prevent pollution from the structure or activity during the course of a one-hundred-year flood. Any such structure or part thereof that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication Floodproofing Regulations (United States Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

§ 103-23. Special requirements for mobile homes.

- A. Within any identified floodplain area, all mobile homes and any additions thereto shall be prohibited within the area measured fifty (50) feet landward from the top of the bank of any watercourse.
- B. Where permitted within any identified floodplain area, all mobile homes and additions thereto shall be:
- (1) Anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Homes Including Mobile Home Park Requirements [NFPA No. 501A-1974 (ANSI A119.3-1975)], as amended for mobile homes in hurricane zones or other appropriate standards, such as the following:
 - (a) Over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and one (1) additional tie per side for units less than fifty (50) feet in length.

- (b) Frame ties shall be provided at each corner of the mobile home, with five (5) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and four (4) additional ties per side for units less than fifty (50) feet in length.
 - (c) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- (2) Elevated in accordance with the following requirements.
- (a) The stands or lots shall be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be one and one-half (1½) feet or more above the elevation of the one-hundred-year flood.
 - (b) Adequate surface drainage is provided.
 - (c) Adequate access for a hauler is provided.
 - (d) Where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten (10) feet apart; and reinforcement shall be provided for pilings that will extend for six (6) feet or more above the ground level.
- C. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the appropriate borough officials for mobile home parks.

ARTICLE V Activities Requiring Special Permits

§ 103-24. Enumeration of activities.

In accordance with the administrative regulations promulgated by the Department of Community Affairs to implement the Pennsylvania Floodplain Management Act (Act 1978-166),⁵ the

⁵ Editor's Note: See 32 P.S. § 679.101 et seq.

following obstructions and activities are prohibited if located entirely or partially within an identified floodplain area unless a special permit is issued:

- A. Hospitals, public or private.
- B. Nursing homes, public or private.
- C. Jails or prisons.
- D. New mobile home parks and mobile home subdivisions and substantial improvements to existing mobile home parks.

§ 103-25. Application review procedures.

Upon receipt of an application for a special permit by the Borough of Mahanoy City, the following procedures shall apply in addition to those of Article II:

- A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission, by registered or certified mail, for its review and recommendations. Copies of the application shall also be forwarded to the Borough of Mahanoy City and the Commission's and the borough's engineer for review and comment.
- B. If an application is received that is incomplete, the Schuylkill County Planning Commission shall notify the applicant in writing, stating in what respects the application is deficient.
- C. If the Borough of Mahanoy City decides to disapprove an application, it shall notify the applicant, in writing, of the reason for the disapproval.
- D. If the Borough of Mahanoy City approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five (5) working days after the date of approval.

- E. Before issuing the special permit, the Borough of Mahanoy City shall allow the Department of Community Affairs thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Borough of Mahanoy City.
- F. If the Borough of Mahanoy City does not receive any communication from the Department of Community Affairs during the thirty-day review period, it may issue a special permit to the applicant.
- G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Borough of Mahanoy City and the applicant, in writing, of the reasons for the disapproval, and the Borough of Mahanoy City shall not issue the special permit.

§ 103-26. Special technical requirements.

- A. In addition to the requirements of Article IV of this chapter, the following minimum requirements shall also apply to any proposed development requiring a special permit. If there is any conflict between any of the following requirements and those in Article IV of this chapter in any other code, ordinance or regulation, the more restrictive provision shall apply.
- B. No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 - (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located and constructed so that:
 - (a) The structure will survive inundation by waters of the one-hundred-year flood without any lateral movement or damage to either the structure itself or to any of its equipment or contents below the one-hundred-year flood elevation.

- (b) The lowest floor elevation will be at least one and one-half (1½) feet above the one-hundred-year flood elevation.
 - (c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one-hundred-year flood.
- (2) Prevent any significant possibility of pollution, increased flood levels or flows or debris endangering life and property.
- C. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Mahanoy City and the Department of Community Affairs.

ARTICLE VI

Existing Structures in Identified Floodplain Areas

§ 103-27. Conditions for continuance.

Structures existing in any identified floodplain area prior to the enactment of this chapter may continue to remain, provided that:

- A. Any modification, alteration, reconstruction or improvement of any kind to an existing structure to an extent or amount of fifty percent (50%) or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.
- B. Any modification, alteration, reconstruction or improvement of any kind to an existing structure to an extent or amount less than fifty percent (50%) of its market value shall be elevated and/or floodproofed to the greatest extent possible.

ARTICLE VII
Variances

§ 103-28. Grant of relief.

If compliance with any of the requirements of this chapter would result in an exceptional hardship to a prospective builder, developer or landowner, the Borough of Mahanoy City may, upon request, grant relief from the strict application of the requirements.

§ 103-29. Procedures and conditions.

- A. Requests for variances shall be considered by the Borough of Mahanoy City in accordance with the procedures contained in § 103-15 and the following:
- (1) Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Article V, Activities Requiring Special Permits, or to § 103-22, Development which may endanger human life.
 - (2) If granted, a variance shall involve only the least modification necessary to provide relief.
 - (3) In granting any variance, the Borough of Mahanoy City shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare and to achieve the objectives of this chapter.
 - (4) Whenever a variance is granted, the Borough of Mahanoy City shall notify the applicant, in writing, that:
 - (a) The granting of the variance may result in increased premium rates for flood insurance.
 - (b) Such variances may increase the risks to life and property.

- (5) In reviewing any request for a variance, the Borough of Mahanoy City shall consider, at a minimum, the following:
 - (a) That there is good and sufficient cause.
 - (b) That failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) That the granting of the variance will neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety or extraordinary public expense nor create nuisances, cause fraud on or victimize the public or conflict with any other applicable state or local ordinances and regulations.
 - (6) A complete record of all variance requests and related actions shall be maintained by the Borough of Mahanoy City. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.
- B. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.

ARTICLE VIII Definitions

§ 103-30. Word usage; definitions.

- A. Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE OR STRUCTURE — A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

BUILDING — A combination of materials to form a permanent structure having walls and a roof; all mobile homes and trailers to be used for human habitation shall be included.

CONSTRUCTION — The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations and the subdivision of land.

FLOOD — A temporary inundation of normally dry land areas.

FLOODPLAIN AREA — A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse, and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

MINOR REPAIR — The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exitway requirements; nor shall "minor repairs" include addition to, alteration of, replacement or relocation of any stand-pipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one (1) or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

MOBILE HOME PARK — A parcel of land under single ownership which has been planned and improved for the placement of two (2) or more mobile homes for non-transient use.

OBSTRUCTION — Any way, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or flood-prone area, which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of the water might carry the same downstream to the damage of life and property.

ONE-HUNDRED-YEAR FLOOD — A flood that, on the average, is likely to occur once every one hundred (100) years, i.e. that has a one-percent chance of occurring each year, although the flood may occur in any year.

REGULATORY FLOOD ELEVATION — The one-hundred-year flood elevation, plus a freeboard safety factor of one and one-half (1½) feet.

SPECIAL PERMIT — A special approval which is required for hospitals, nursing homes, jails and new mobile home parks and substantial improvements to such existing parks, when such development is located in all or a designated portion of a floodplain.

STRUCTURE — Anything constructed or erected on the ground or attached to the ground, including but not limited to buildings, sheds, mobile homes and other similar items.

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer or ownership or building or lot development. The division of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access, shall be exempted.

Chapter 105

FLOWER AND PLANT SALES

- § 105-1. License required.
- § 105-2. Sidewalk sales.
- § 105-3. Application for license.
- § 105-4. License not transferable; display.
- § 105-5. Revocation of license; hearing.
- § 105-6. Violations and penalties.
- § 105-7. Annual license fee.

HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 5-2-39 as Ord. No. 205, approved 5-2-39. Sections 105-3, 105-6 and 105-7 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting — See Ch. 148.

§ 105-1. License required.

Any person, firm or corporation engaged in the retail sale of cut flowers, flowering plants or cuttings from them or any of them shall first obtain from the Borough of Mahanoy City a license authorizing the conduct of such business; but the provisions of this chapter shall not be construed to include persons, firms or corporations exempted by statute from procuring a license for such purpose, or persons, firms or corporations selling only dry

bulbs, roots, tubers, corms, unpotted hardy perennials, deciduous plants, seedlings, evergreens, shrubs, vines, vegetable plants or cereal plants.

§ 105-2. Sidewalk sales. [Amended 7-7-87 by Ord. No. 87-5, approved 7-7-87]

The display of flowers on public sidewalks is permitted as long as the license fee of one hundred dollars (\$100.) has been fully paid and as long as such display does not obstruct or impair the free movement of pedestrian traffic over said sidewalk in any way whatsoever.

§ 105-3. Application for license. [Amended 5-5-81 by Ord. No. 81-3, approved 5-5-81]

Applications for licenses hereunder shall be made in writing to the Mayor and filed in the office of the Mayor. Each such application shall include a statement giving the true location at which it is proposed to carry on the retail florist business; the name, age and place of residence of the applicant if an individual; the name of the individual members if a firm or copartnership; and the principal place of business if a corporation, which shall be verified under oath by the applicant. No license shall be issued to any person under the age of eighteen (18) years.

§ 105-4. License not transferable; display.

No license under this chapter shall be transferable, and said license shall be conspicuously displayed in the place of business of the florist.

§ 105-5. Revocation of license; hearing.

Any license which may be issued in pursuance of this chapter may be revoked by the Mayor upon proof of violation of the provisions of this chapter or of any of the laws of the State of Pennsylvania; but before such revocation, the licensee shall be entitled to a hearing before the Mayor at a time and place to be fixed by the latter, of which due notice is to be given to the

licensee; and in the event of such revocation, no refund shall be made to the licensee for the unexpired term of such license.

§ 105-6. Violations and penalties.²

Any person violating any of the provisions of this chapter shall, upon being found guilty of such violation, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

§ 105-7. Annual license fee.³

The annual license fee is hereby fixed and determined at the sum of one hundred dollars (\$100.), and said licenses shall be effective for the term and period of one (1) year from date of issuance, subject to revocation as hereinbefore provided.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 108

FURNACES AND FUEL OIL

- § 108-1. Definitions.
- § 108-2. Exceptions.
- § 108-3. Permit required; application; form.
- § 108-4. Fee for furnace installation permit.
- § 108-5. Tank specifications.
- § 108-6. Fee for tank installation permit.
- § 108-7. Installation of tanks.
- § 108-8. Maximum tank capacity.
- § 108-9. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 10-3-61 as Ord. No. 308, approved 10-3-61. Sections 108-4, 108-6 and 108-9 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 102.
Gasoline and liquefied gas — See Ch. 116.

§ 108-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FLAMMABLE PETROLEUM PRODUCTS — Means gasoline, kerosene, naphtha or any liquid petroleum product stored or held for sale either at retail or wholesale.

LIGHT FUEL OIL — Means kerosene, No. 1 fuel oil, No. 2 fuel oil, No. 3 fuel oil or any petroleum product used for the purpose of supplying heat to any dwelling, building or structure of whatever nature.

§ 108-2. Exceptions.

This chapter shall not apply to flammable liquid petroleum products in quantities of twenty-five (25) gallons or less, provided the same are stored or kept in containers meeting the requirements of the Fire Chief of the Borough of Mahanoy City and of the National Board of Fire Underwriters.

§ 108-3. Permit required; application; form.

It shall be unlawful for any person, firm or corporation to install, erect, construct or operate any furnace, tank or device using light fuel oil or flammable petroleum product within the limits of the Borough of Mahanoy City unless and until a permit therefor shall be secured from the Borough Secretary for each separate undertaking; such permit and the application therefor shall be in form prescribed by and secured from the Secretary of the Borough of Mahanoy City and shall contain a statement that the applicant agrees to the terms of this chapter.

§ 108-4. Fee for furnace installation permit. [Amended 10-6-64 by Ord. No. 323, approved 10-6-64¹]

The charge for each installation permit for furnaces or devices using light fuel oil as a fuel shall be five dollars (\$5.), to be paid before installation is commenced, which permit fee shall be paid by the owner of the premises upon which installation shall be made. The Fire Chief of the borough shall be notified by the owner of the premises when the installation is complete, whereupon the Fire Chief shall inspect the installation of the tank, furnace, fuel lines and wiring, and if the same shall meet with his approval, he shall authorize the furnace or device to be placed in operation.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 108-5. Tank specifications. [Amended 12-8-64 by Ord. No. 324, approved 12-8-64]

Tanks for the storage of light fuel oil for residential use shall be of a capacity of not more than two hundred eighty (280) gallons and shall meet the requirements of the National Board of Fire Underwriters. Such tanks shall be equipped with a safety signaling device to indicate when the tank is full. Not more than two (2) tanks shall be permitted for each installation.

§ 108-6. Fee for tank installation permit. [Amended 10-6-64 by Ord. No. 323, approved 10-6-64²]

The charge for each installation permit for tanks for storage of flammable liquid petroleum products shall be the sum of five dollars (\$5.), to be paid before installation is commenced, which permit fee shall be paid by the owner of the premises upon which installation shall be made. The installation shall be subject to the inspection and approval of the Fire Chief of the Borough of Mahanoy City.

§ 108-7. Installation of tanks.

Tanks for the storage of flammable liquid petroleum products shall bear the seal of approval of the National Board of Fire Underwriters and shall be installed underground, securely anchored in a concrete vault, the base, sides and cover of which shall be at least six (6) inches thick. Said vault shall be properly vented.

§ 108-8. Maximum tank capacity.

It shall be unlawful to install tanks having an aggregate capacity of more than seven thousand (7,000) gallons on one (1) property or used for one (1) place of business.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 108-9. Violations and penalties.³

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

GARBAGE, RUBBISH AND REFUSE

Chapter 113

GARBAGE, RUBBISH AND REFUSE

ARTICLE I Collection

- § 113-1. Definitions.
- § 113-2. Refuse preparation, storage and collection practices.
- § 113-3. Collection vehicle, equipment and personnel requirements.
- § 113-3.1. Collection fees.
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ARTICLE II Recycling

- § 113-5. Title.
- § 113-6. Definitions.
- § 113-7. Establishment of program.
- § 113-8. Lead acid batteries.
- § 113-9. Leaf waste.
- § 113-10. Municipal ownership of recyclables.
- § 113-11. Existing operations.
- § 113-12. Mixing with waste prohibited; rules and regulations.
- § 113-13. Franchise or license.

§ 113-14. Violations and penalties; enforcement.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 70.
Deposits in creeks and drains — See Ch. 80.
Littering — See Ch. 128.
Abandoned refrigerators — See Ch. 154.

ARTICLE I
Collection

[Adopted 5-5-1981 by Ord. No. 81-3, approved 5-5-1981]

§ 113-1. Definitions.

As used in this article, the following terms shall have the meanings indicated except where the context clearly indicates otherwise:

AUTHORIZED COLLECTOR — Any refuse collector who collects refuse in the Borough of Mahanoy City and who must register with the Borough Secretary and maintain his equipment in accordance with the standards prescribed in this article.

ENFORCEMENT OFFICER — The Police Department, the Code Enforcement Officer or any authorized representative thereof. **[Amended 1-22-2008 by Ord. No. 2008-2, approved 1-22-2008]**

NONRESIDENTIAL PROPERTY — Any property used for industrial or commercial purposes or any purpose other than as a dwelling. "Nonresidential property" also means any building or lot containing more than four dwelling units.

PERSON — Any natural person, association, partnership, firm or corporation.

REFUSE — Ashes, discarded or unusable personal property of any nature, including, without limitation, glass, metal, paper, plant growth, wood, nonputrescible solid wastes and rubbish. **[Amended 1-22-2008 by Ord. No. 2008-2, approved 1-22-2008]**

RESIDENTIAL PROPERTY — Any property used as a dwelling, including any one building having up to four dwelling units in such building; provided, however, that each dwelling unit in a multiple dwelling shall be treated as a separate “residential property” as it relates to the storage therein and collection therefrom of refuse.

§ 113-2. Refuse preparation, storage and collection practices.

The following standards and practices shall be adhered to in the preparation and storage of refuse:

A. Preparation of refuse.

- (1) All refuse shall be drained free of liquids before disposal.
- (2) Refuse shall either be placed in approved containers or be cut and baled, tied, bundled, stacked or packaged so as not to exceed 48 inches in length or 50 pounds in weight.

B. Storage of refuse.

- (1) All refuse from residential properties not cut and baled, tied, bundled, stacked or packaged as hereinbefore specified shall be stored in containers which shall be of watertight, rust-resistant metal or plastic having a close-fitting lid and handles or in plastic trash bags. These containers shall not be more than 32 gallons in capacity.
- (2) All refuse from nonresidential properties not cut, baled, tied, bundled, stacked or packaged as hereinbefore specified shall be stored in such

containers as are in common use by authorized collectors for commercial or industrial use; provided, however, that the Enforcement Officer of Mahanoid City shall approve such containers. In determining whether any such container shall be approved, the Enforcement Officer shall consider whether the size and nature of the container or its location constitutes a health or safety hazard, whether it is or should be covered in light of the location, size, nature or usual contents, and other considerations affecting the public health, safety and welfare. Industrial wastes shall in all events be stored in such manner as not to cause any public nuisance by reason of odor or appearance nor cause the pollution of streams or air.

- (3) In the case of items of refuse from residential and nonresidential properties which, because of size, construction, material or other apparent reasons, cannot with reasonable practicality be cut and baled, tied, bundled, stacked or packaged or placed into containers, all as hereinbefore specified, such items shall be collected by specific appointment to be arranged by the owner thereof with the Borough or its appointed designee or independent contractor. All provisions of this chapter, with the exception of the provisions with respect to cutting, baling, tying, binding, stacking, packaging or placing in containers of refuse, shall apply to such items. **[Amended 1-22-2008 by Ord. No. 2008-2, approved 1-22-2008]**
- (4) No person shall permit the accumulation or residue of liquids, solids or a combination of such materials on the bottom or sides of refuse containers, it being the intent of this provision that the interior of containers shall be kept clean by thorough rinsing and draining as often as necessary.
- (5) Every person owning or occupying any residential property or nonresidential property shall provide

himself with refuse containers or shall otherwise store his refuse, all as specified in this chapter, and no person shall place refuse in any street, alley, stream, body of water or on any other public place or on private property, whether owned by such person or not.

- (6) The practice of storing or depositing any abandoned or junked automobiles, machinery or discarded equipment of any kind or parts thereof in or on any public or private property, vacant or occupied, within the Borough, shall be deemed to be and constitute a nuisance and is hereby prohibited.

C. Collection of refuse.

- (1) Refuse containers and refuse shall, for the purposes of collection, be placed at ground level and shall be made readily accessible to the collector.
- (2) Unless persons having refuse and the collector shall in any particular case mutually agree upon a different place from which to assemble the refuse for collection (which they may do), refuse containers and refuse shall, for purposes of collection, be placed along the street but not in the cartway.
- (3) Refuse containers shall not remain on the curb for longer than 15 hours before a scheduled collection nor longer than 15 hours after collection.
- (4) Collection of refuse shall be on the following schedule:
 - (a) Residential collection of refuse shall be required on a frequent schedule so as not to create a nuisance, health or safety problem.
 - (b) Commercial and nonresidential collection of refuse shall be twice a week.
 - (c) In any particular case, the Borough Council may require more or less frequent collections as in its opinion such greater or less frequency of

collection is consistent with the public health, safety and welfare. **[Amended 1-22-2008 by Ord. No. 2008-2, approved 1-22-2008]**

- (d) Refuse shall not be collected on Sundays.
- (e) Refuse collections shall not be made prior to 5:00 a.m. nor after 5:00 p.m., except in any particular case involving emergencies or breakdowns.

§ 113-3. Collection vehicle, equipment and personnel requirements.

The following shall constitute standards of equipment and personnel of authorized collectors, residential and nonresidential:

- A. All vehicles used for collection of refuse shall be equipped with compacting devices or equivalent type of closed bodies and shall have enclosed cargo space, except that for large items such as discarded machinery or the like which cannot be put into such equipment, an open-bodied truck for such cases only may be used.
- B. All vehicles used for collection shall be in good and proper order and repair and shall be so maintained at all times.
- C. Collection vehicles shall not be overloaded so that any refuse shall spill out into the street or highway, nor shall the vehicle be so designed or maintained as to permit the leakage of fluids. They shall be regularly cleaned and shall bear the name and address of the collector plainly visible on both sides of the vehicle.
- D. Each collection vehicle shall be manned with sufficient help, and each collection vehicle shall be equipped with at least one broom and shovel to clean up refuse that may be spilled or otherwise scattered in the process of collection.

§ 113-3.1 GARBAGE, RUBBISH AND REFUSE § 113-3.2

§ 113-3.1. Collection fees. [Added 1-2-1990 by Ord. No. 90-1, approved 1-2-1990; amended 1-6-1992 by Ord. No. 92-1, approved 1-6-1992; 12-18-1992 by Ord. No. 92-10, approved 12-18-1992; 3-12-2002 by Ord. No. 2002-1, approved 3-12-2002; 1-14-2003 by Ord. No. 2003-1, approved 1-14-2003; 9-14-2004 by Ord. No. 2004-6, approved 9-14-2004; 2-14-2006 by Ord. No. 2006-1, approved 2-14-2006; 1-22-2008 by Ord. No. 2008-2, approved 1-22-2008]

- A. Fees for collections and disposal of refuse are as follows:
- (1) For each residential unit, the fee is \$210 per year per family for refuse removal.
 - (2) The fees as set forth in § 113-3.1, the dates on which bills will be sent, the dates by which payments will be due, discounts and penalties, if any, and payment options will be set by the Borough by resolution. The amount of delinquency necessary for discontinuance of service as set forth in § 113-3.2C hereof will also be set by the Borough by resolution.¹
- B. The owner(s) of any real estate, as well as any person producing refuse, are jointly and severally responsible for paying the fees for refuse removal.

§ 113-3.2. Collection and billing. [Added 1-2-1990 by Ord. No. 90-1, approved 1-2-1990; 9-8-1992 by Ord. No. 92-6, approved 9-8-1992; amended 1-22-2008 by Ord. No. 2008-2, approved 1-22-2008]

- A. The Borough or its appointed designee or independent contractor, will collect refuse stored in containers not more than 32 gallons in capacity and will not collect junked cars, demolition debris and other large items. The real estate owner from which such items are generated is

¹ Editor's Note: The current resolution is on file in the office of the Borough Secretary.

responsible for their proper disposal. The owner of said refuse, whether a real estates owner or not, is also liable for the proper disposal of said refuse.

- B. (Reserved)
- C. All fees are considered delinquent if not paid on the due date specified on the bill thereof. All delinquent accounts are subject to discontinuance of service without notice. It shall be unlawful for any person, after his or her refuse collection has been suspended or terminated by the Borough for nonpayment of fees, to place said refuse in any public area of the Borough. The discontinuance of service for nonpayment of collection and disposal charges shall be in addition to the right of the Borough to proceed for collection of such unpaid charges by an action in assumpsit, a municipal lien levied against the real estate from which the refuse is generated and any other manner or remedy provided by law for collection of municipal claims.
- D. A penalty of 5% of the amount due shall be added to any account not paid on the due date specified on the bill thereof. It shall be added to the amount due and collected as set forth in the preceding subsection. The Borough is authorized to retain the services of a delinquent solid waste refuse fee collection agency or individual, and hereby authorizes said collection agency or individual to impose the fees for its services upon the delinquent as an additional late payment in addition to all of the other fees authorized herein. The delinquent fee collector is also authorized to impose its costs upon the delinquent.
- E. The collection and disposal of refuse in the Borough of Mahanoy City shall be under the supervision of the Borough Council. It shall have the authority to make additional regulations concerning the days of collection, type and location of waste containers and such other matters pertaining to the collection and disposal as it may deem advisable and to change and modify the same

§ 113-3.2 GARBAGE, RUBBISH AND REFUSE § 113-4

from time to time, provided that such regulations are not contrary to the provisions hereof. An aggrieved person shall have the right to appeal against any regulation made by the Council of Mahanoy City, which may confirm, modify or revoke any such regulation.

- F. All refuse covered by this Article which is accumulated in the Borough shall be collected, conveyed and disposed of by the Borough or its appointed designee or independent contractor, and the cost of such service shall be paid as provided in the schedule of fees set forth in § 113-3.1 hereof by the person producing the refuse or responsible for the existence or disposal thereto or for whom such refuse is collected or removed. It is unlawful for any person, other than the Borough or its appointed designee or independent contractor, to collect or carry refuse over any streets or alleys of the Borough or dispose of any refuse accumulated in the Borough.
- G. The ownership of all material placed on the dump or landfill shall be vested in the owner of the dump or landfill premises. The Borough assumes no liability for items or refuse set out for collection other than that provided herein.

§ 113-4. Violations and penalties.

Any person violating any of the provisions of this article shall, upon conviction, be sentenced to pay a fine of not more than \$300 and costs of prosecution, and in default of payment of such fine and costs, to imprisonment in the county jail for not more than 30 days.

ARTICLE II

Recycling

[Adopted 9-3-1991 by Ord. No. 91-4, approved 9-3-1991²]

§ 113-5. Title.

This article shall be known as the "Waste Recycling and Reduction Ordinance."

(Cont'd on page 11309)

² Editor's Note: This ordinance superseded former Art. II, Recycling, adopted 12-6-1988 by Ord. No. 88-3, approved 12-6-1988.

§ 113-6. Definitions.

The following terms are defined as follows:

ALUMINUM CANS — Empty, all-aluminum beverage and food containers.

BIMETALLIC CONTAINERS — Empty food or beverage containers consisting of steel and aluminum.

COMMERCIAL ESTABLISHMENTS — Those properties used primarily for commercial or industrial purposes.

COMMUNITY ACTIVITIES — Events that are sponsored by public or private agencies or individuals that include but are not limited to fairs, bazaars, socials, picnics and organized sporting events attended by two hundred (200) or more individuals per day.

CORRUGATED PAPER — Structural paper material with an inner core shaped in rigid parallel furrows and ridges.

FERROUS CONTAINERS — Empty steel or tin-coated steel food or beverage containers.

GLASS CONTAINERS — Bottles and jars made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass and porcelain and ceramic products.

HIGH-GRADE OFFICE PAPER — All white paper, bond paper and computer paper used in commercial, institutional and municipal establishments and in residences.

INSTITUTIONAL ESTABLISHMENTS — Those facilities that house or serve groups of people, such as hospitals, schools, day-care centers and nursing homes.

LEAD ACID BATTERIES — Include but shall not be limited to automotive, truck and industrial batteries that contain lead.

LEAF WASTE — Leaves from trees, bushes and other plants, garden residue, chipped shrubbery and tree trimmings, but not including grass clippings.

MAGAZINES AND PERIODICALS — Printed matter containing miscellaneous written pieces published at fixed or

varying intervals. Expressly excluded are all other paper products of any nature whatsoever.

MULTIFAMILY HOUSING PROPERTIES — Any properties having four (4) or more dwelling units per structure.

MUNICIPAL ESTABLISHMENTS — Public facilities operated by the municipality and other governmental and quasi-governmental authorities.

NEWSPAPER — Paper of the type commonly referred to as “newsprint” and distributed at fixed intervals, having printed thereon news and opinions and containing advertisements and other matters of public interest.

PERSON(S) — Owners, lessees and occupants of residences, commercial or institutional establishments.

PLASTIC CONTAINERS — Empty plastic food and beverage containers. Due to the large variety of types of plastic, the recycling regulations may stipulate specific types of plastic which may be recycled.

RECYCLABLE MATERIALS — Source-separated recyclable materials, including materials listed in Section 1501 of Act 101,¹ and materials identified by the municipality to be recycled.

RESIDENTIAL DWELLINGS — Any occupied single- or multifamily dwelling for which the municipality provides municipal waste collection service.

SOURCE-SEPARATED RECYCLABLE MATERIALS — Those materials separated at the point of origin for the purpose of being recycled.

WASTE — A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed. The term does not include source-separated recyclable materials or material approved by the Department for beneficial use.

¹ Editor's Note: See 53 P.S. § 4000.1501.

§ 113-7. Establishment of program.

A program for the recycling and reduction of waste is hereby created, providing for the separation of recyclables by residences and commercial, municipal and institutional establishments, community activities and multifamily housing units; for the storage and collection of the same; and for the separation, collection and composting of leaf waste and establishing also a public information and education program on the program.

§ 113-8. Lead acid batteries.

The disposal of lead acid batteries with household waste is prohibited.

§ 113-9. Leaf waste.

Leaf waste, grass clippings and other such wastes be separated from other waste. Rules and regulations regarding such separation shall be adopted from time to time by the borough.

§ 113-10. Municipal ownership of recyclables.

Materials placed at curbside may be considered abandoned by the borough. Once so placed, recyclables are the property of the Borough of Mahanoy City. No person(s) not authorized by the borough may collect, remove, scatter or disturb such recyclables.

§ 113-11. Existing operations.

Recycling operations in existence on September 1, 1991, may continue their operations. Such operations must comply with all rules and regulations of the borough regarding the same.

§ 113-12. Mixing with waste prohibited; rules and regulations.

Recyclables may not be disposed of, placed at curbside or any other location for pickup while mixed with other materials nor mixed with

other waste or placed in landfills by any individual, firm or corporation. The Borough of Mahanoy City will establish what materials are recyclable by rules and/or regulations from time to time. The borough may dispose of recyclables as it sees fit and shall establish rules and regulations pertaining to the storage, disposal and pickup of recyclables from time to time.

§ 113-13. Franchise or license.

The borough may enter into franchise or license agreements with any agency or person to collect recyclable materials. Fees for the same shall be determined by the borough from time to time.

§ 113-14. Violations and penalties; enforcement.

Anyone violating this Article or any of the rules or regulations promulgated hereunder is liable for a fine not to exceed one thousand dollars (\$1,000.) per offense and/or a jail term not to exceed sixty (60) days per offense. The Mahanoy City Borough Police Department, Code Enforcement Officer and Health Officer or Inspector are empowered to enforce this Article.

GASOLINE AND LIQUEFIED GAS

Chapter 116

GASOLINE AND LIQUEFIED GAS

ARTICLE I

Gasoline Pumps on Streets

- § 116-1. License required.
- § 116-2. Approval of design and location.
- § 116-3. Annual license fee.
- § 116-4. Violations and penalties.

ARTICLE II

Liquefied Petroleum Gas Storage

- § 116-5. Storage tanks prohibited.
- § 116-5.1. Propane gas tanks.
- § 116-6. Violations and penalties.

ARTICLE III

Self-Service Gasoline Pumps

- § 116-7. Definitions.
- § 116-8. Prohibition.
- § 116-9. Applicability.
- § 116-10. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City: Art. I, 8-3-15 as Ord. No. 121, approved 8-5-15; Art. II, 5-5-53 as Ord. No. 262, approved 5-5-53; Art. III, 6-3-80 as Ord. No. 404. Sections 116-4, 116-6 and 116-10 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 102.

Furnaces and fuel oil — See Ch. 108

ARTICLE I

Gasoline Pumps on Streets

[Adopted 8-3-15 as Ord. No. 121, approved 8-5-15]

§ 116-1. License required.

No person or persons shall place, maintain, use or operate any gasoline tank or pumps within the lines of any of the public streets of the Borough of Mahanoy City without first obtaining a license from the Mayor of said borough so to do and paying therefor the license fee hereinafter provided.

§ 116-2. Approval of design and location.

The Borough Council shall first approve the design or kind of tank and pump proposed to be maintained, used or operated, and the Street Committee of Borough Council shall designate the place at the curblines where the tank and pump are to be located.

§ 116-3. Annual license fee.

The owner or owners of gasoline tanks and pumps now in the streets of said borough and of any which may hereafter be placed therein shall pay for each tank and pump an annual license fee of five dollars (\$5.).

§ 116-4. Violations and penalties. [Amended 5-5-81 by Ord. No. 81-3, approved 5-5-81]

Any person or persons placing, maintaining, using or operating any gasoline tank and pump within the lines of any public street of said borough without paying the license fee provided in § 116-3

shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

ARTICLE II

Liquefied Petroleum Gas Storage

[Adopted 5-5-53 as Ord. No. 262, approved 5-5-53]

§ 116-5. Storage tanks prohibited.

No person, firm, association or corporation shall store, install or construct in any storeroom, building, dwelling or property within the Borough of Mahanoy City, Schuylkill County, Pennsylvania, any tank or tanks containing liquefied petroleum gas or any volatile flammable liquid or gas of like character under whatsoever name described.

§ 116-5.1. Propane gas tanks. [Added 6-3-86 by Ord. No. 86-2, approved 6-3-86]

- A. Any propane gas tank used for residential purposes must be connected for use in such a manner so as to comply with all state and/or federal regulations governing such use and furthermore, must be used only in a safe manner and must be connected outside the building which it is to serve.
- B. Any propane gas tank used for residential purposes must be placed upon a safe and proper concrete or asphalt foundation which is able to safely support the tank and any assemblages attached thereto.
- C. Any propane gas tank containing one hundred (100) pounds or more of gas must be installed outside the building it is to serve, and in conducting said installation, it must not be transported through any home, garage, apartment complex or any other building or structure. [Added 2-11-1992 by Ord. No. 92-2, approved 2-11-1992]

§ 116-6. Violations and penalties. [Amended 5-5-81 by Ord. No. 81-3; approved 5-5-81]

Any person or persons violating any of the provisions of this Article shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

ARTICLE III

Self-Service Gasoline Pumps

[Adopted 6-3-80 as Ord. No. 404]

§ 116-7. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

PERSON — Any individual, partnership, association, corporation or other legal entity.

SELF-SERVICE GASOLINE PUMP — A gasoline pump or similar device used for the dispensing of gasoline which is designated for use and operation by the customer-motorist rather than by an attendant or other person employed or authorized by the owner or operator of the service station.

§ 116-8. Prohibition.

No person shall construct, assemble, maintain, use or operate self-service gasoline pumps within the Borough of Mahanoy City.

§ 116-9. Applicability.

This Article shall be applicable to and enforceable against the owner of any property upon which self-service gasoline pumps are located and, in addition thereto, any lessee, tenant or operator of any such facility.

§ 116-10. Violations and penalties. [Amended 5-5-81 by Ord. No. 81-3, approved 5-5-81]

Anybody found guilty of violating the provisions of this Article in a summary proceeding before a District Justice shall be subject to a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, to imprisonment in the county jail for not more than thirty (30) days.

Chapter 119

HOUSE NUISANCES

§ 119-1. Definitions.

§ 119-2. Disorderly house nuisance defined.

§ 119-3. Disorderly house nuisance prohibited.

§ 119-4. Written notice of disorderly house nuisance.

§ 119-5. Nuisance abatement.

§ 119-6. Informal conference.

§ 119-7. Commencement of prosecution.

§ 119-8. Action to abate penalties.

§ 119-9. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 11-15-2005 by Ord. No. 2005-7, approved 11-15-2005. Amendments noted where applicable.]

GENERAL REFERENCES

Housing and property maintenance — See Ch. 121.

§ 119-1. Definitions.

For the purpose of this chapter, the following definitions shall apply:

BOROUGH — The Borough of Mahanoy City.

BOROUGH CODE — The Code of the Borough of Mahanoy City.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer of the Borough of Mahanoy City.

DWELLINGS — Any building arranged, designed or used in whole or part to provide living facilities for one or more families. "Dwelling" shall include boarding (lodging) and/or rooming houses. "Dwelling" shall also include both the enclosed area within a dwelling, as well as the exterior premises of the dwelling, within the boundary lines of any real property on which the dwelling is located.

OCCUPANCY — Any person who lives in or has possession of, or holds an occupancy interest in, a dwelling; or any person residing in or frequenting the premises of the dwelling with the actual or implied permission of the owner or lessee.

OWNER — Any person, agent, operator, firm or corporation having legal or equitable interest in the dwelling; or recorded in official governmental records as holding title to the dwelling; or otherwise having control of the dwelling, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of such property by a court.

§ 119-2. Disorderly house nuisance defined.

A disorderly house nuisance is a dwelling within which, or on the premises of which, any of the following has occurred within a three-hundred-sixty-five-day period.

- A. Three or more violations of criminal statutes of the Commonwealth of Pennsylvania and/or the ordinances of the Borough of Mahanoy City, arising out of separate and distinct facts and circumstances and which occur in a dwelling or on the premises of a dwelling or on property in close proximity to a dwelling or to the premises of a dwelling.

- B. Three or more violations of the Borough Code relating to property maintenance arising out of separate, and distinct facts and circumstance.
- C. Three or more violations of the Borough Code relating to zoning, arising out of separate, and distinct facts and circumstances.
- D. A combination of three offenses from any of the above categories, arising out of separate, and distinct facts and circumstances and which have been investigated, found to have substance, and appropriately documented by the Code Enforcement Officer or members of the Mahanoy City Police Department, and regardless of whether the violation resulted in the initiation of formal court action.

§ 119-3. Disorderly house nuisance prohibited.

- A. No owner or occupant of any dwelling shall allow or permit such dwelling to be, or become, a disorderly house nuisance.
- B. An owner and/or occupant, as the case may be, shall be deemed to have allowed or permitted a dwelling to be, or become, a disorderly house nuisance, if:
 - (1) The owner or occupant has personally committed the acts set forth in § 119-2;
 - (2) Such acts were committed by invitees of the occupant or owner;
 - (3) Such acts were committed by persons attending events or functions sponsored, permitted or allowed by the occupant or owner;
 - (4) Such acts were committed by a combination of Subsection B(1), (2) or (3); or
 - (5) The owner or occupant has been provided with the written notice of a disorderly house nuisance pursuant to § 119-4, below, the facts alleged therein

are true, and the owner or occupant fails or refuses to abate the disorderly house nuisance.

§ 119-4. Written notice of disorderly house nuisance.

No person shall be prosecuted for a violation of § 119-3 until the Code Enforcement Officer shall serve such person with the notice provided herein, and the person has either failed or refused to abate the disorderly house nuisance. The Code Enforcement Officer and the Chief of Police shall jointly sign and give the notice provided herein to the owner or occupant after the second occurrence of a violation of the provisions of § 119-3 herein. Said notice shall advise the owner or occupant of the specific acts which constituted the disorderly house nuisance and that a third violation will result in an informal conference with Borough Council. In the event of a third violation of § 119-3 herein, an informal conference will be scheduled with Borough Council, at which time the owner or occupant will have an opportunity to present his or her arguments to Borough Council as to why Borough Council should not allow the Code Enforcement Officer or the Chief of Police to file a citation for violation of this chapter with the Magisterial District Justice. Such notice may be served on any person by personal service, or in the case of an occupant, by restricted mail addressed to the address of the dwelling, or, in the case of a nonoccupant owner, by restricted mail to his/her last known address, or, if none, to the address to which any tax statement is provided to such owner for the dwelling, or by posting of the dwelling, either on the structure or at a location on the exterior premises, or by any other method of service reasonably calculated to give actual notice. Such notice shall contain, at a minimum, the following:

- A. That a disorderly house nuisance exists, as defined by § 119-2, at the location specified in the notice
- B. The date of the commission of the acts which constitute the basis of the disorderly house nuisance, the name(s) of the person(s) committing such acts, if known, and all other facts and circumstances that the Borough relies

upon to allege that such acts form the basis for the disorderly house nuisance.

- C. The date, time and place where the person is to appear and meet with Borough Council prior to a citation being filed.
- D. That failure to appear, or failure to make satisfactory arrangements for an alternative date and time, at the time, place and manner designated in the notice may result in prosecution of a violation of § 119-3 and the imposition of penalties, as proscribed by the chapter.

§ 119-5. Nuisance abatement.

At the informal conference with Borough Council, the owner and/or occupant shall discuss the facts constituting the disorderly house nuisance and shall attempt to explain why Borough Council should not recommend that the Code Enforcement Officer file a citation for violation of this chapter with the Magisterial District Justice.

§ 119-6. Informal conference.

At the conclusion of the informal conference, Borough Council may include a list of specific actions and a specific schedule of deadlines for said actions to abate the disorderly house nuisance or Borough Council may recommend that the Code Enforcement Officer file a citation for violation of this chapter with the Magisterial District Justice. Borough Council may impose one or more of the following conditions or requirements on the owner and/or occupant:

- A. Institution of eviction proceedings of identified individual(s) from the dwelling in question.
- B. Written notification from the owner and/or occupant to an identified individual or individuals that they are prohibited from entering onto the premises of the dwelling.

- C. Utilization of written leases containing a provision or provisions requiring eviction for criminal activity.
- D. The completion of improvements upon the premises of the dwelling which have the impact of mitigating crime, including but not limited to the erection of fences, installation of security devices upon the entrances or increased lighting.
- E. Any other reasonable condition or requirement designed to abate the disorderly house nuisance.

§ 119-7. Commencement of prosecution.

The Code Enforcement Officer may commence prosecution alleging a violation of this chapter under the following circumstances:

- A. The owner or occupant commits a violation described in § 119-3 of this chapter.
- B. The owner and/or occupant does not attend the informal conference with Borough Council within the time period described previously.
- C. The owner and/or occupant fails or refuses to comply with the conditions or requirements set forth by Borough Council within the prescribed time period set forth in this section.

§ 119-8. Action to abate penalties.

In addition to prosecution of the offense defined in this chapter or pursuing any other remedies available under this Code, the Code Enforcement Officer, upon receipt of reliable information that any dwelling within the corporate limits of the Borough is being maintained as a disorderly house nuisance, may prosecute an action for equitable relief, in the name of the Borough, to abate the nuisance and to enjoin any person who shall own, rent, or occupy the dwelling in question from using

or permitting its use in violation of the provisions of this chapter.

§ 119-9. Violations and penalties.

- A. Any person who shall violate a provision of this chapter, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. In addition to other remedies, any violation may be deemed a municipal infraction and prosecuted as such. The penalty for violation shall be a fine of \$1,000 for each offense.
- B. Upon finding a guilt under this chapter, the court may, in addition to other remedies permitted by the Code, impose any or all of the following conditions:
- (1) The completion of improvements upon the premises of the dwelling which have the impact of mitigating crime and criminal activity including but not limited to the erection of fences, installation of security devices or increased lighting;
 - (2) Requirement of a written lease for occupants which includes provisions requiring eviction for criminal activity;
 - (3) Submitting tenancy lists on a periodic basis to the Police Department; and
 - (4) Any other reasonably related to the objective of abating the disorderly house nuisance.

HOUSING & PROPERTY MAINTENANCE

Chapter 121

HOUSING AND PROPERTY MAINTENANCE

ARTICLE I

Standards

- § 121-1. Adoption of standards.
- § 121-2. Interpretation.
- § 121-3. Uninhabitable structures to be boarded up.
- § 121-4. Uninhabitable structures to be enclosed by fence.
- § 121-5. Violations and penalties.

ARTICLE II

Dangerous Buildings

- § 121-6. Definitions.
- § 121-7. Declaration of public nuisance.
- § 121-8. Dangerous buildings prohibited.
- § 121-9. Issuance of notice.
- § 121-10. Failure to comply.
- § 121-11. Repair, vacation or demolition.
- § 121-12. Lien for cost incurred.
- § 121-13. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City: Art. I, 5-4-76 as Ord. No. 386, approved 5-12-76; Art. II, 3-3-87 as Ord. No. 87-1, approved 3-3-87. Section 121-1 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 72.
Electrical standards — See Ch. 88.
Fire prevention — See Ch. 102.
Mechanical standards — See Ch. 136.
Plumbing — See Ch. 146.

ARTICLE I
Standards

[Adopted 5-4-76 as Ord. No. 386, approved 5-12-76]

§ 121-1. Adoption of standards. [Amended 5-5-81 by Ord. No. 81-3, approved 5-5-81]

A certain documents, three (3) copies of which are on file in the office of the Borough of Mahanoy City Secretary of the Borough of Mahanoy City, County of Schuylkill, being marked and designated as "The BOCA Basic Property Maintenance Code/1978," as published by Building Officials and Code Administrators International, Inc., is hereby adopted as the Housing and Property Maintenance Code of the Borough of Mahanoy City, Schuylkill County, State of Pennsylvania, for the control of buildings and structures as herein provided, and each and all of the regulations of The BOCA Basic Property Maintenance Code/1978 are hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

§ 121-2. Interpretation.

Nothing in this chapter or in the 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 accrued or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

§ 121-3. Uninhabitable structures to be boarded up. [Added 8-19-80 by Ord. No. 407]

Every uninhabitable structure must have all of its windows and doors boarded up in such a manner so as to secure the building from intruders.

§ 121-4 HOUSING & PROPERTY MAINTENANCE § 121-6

§ 121-4. **Uninhabitable structures to be enclosed by fence.**
[Added 8-19-80 by Ord. No. 407]

Every uninhabitable structure shall be enclosed by a fence, if possible, which fence shall be from four (4) feet to six (6) feet in height.

§ 121-5. **Violations and penalties.** [Added 8-19-80 by Ord. No. 407]

Any owner, occupant, person, firm or corporation violating any provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine not to exceed three hundred dollars (\$300.) and costs of prosecution and to undergo imprisonment in the county jail for not more than thirty (30) days, or both. Offenses on separate days shall be deemed to be separate offenses for purposes of this chapter.

ARTICLE II

Dangerous Buildings

[Adopted 3-3-87 as Ord. No. 87-1; approved 3-3-87]

§ 121-6. **Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

DANGEROUS BUILDING:

- A. Any building, shed, fence or other man-made structure which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures.
- B. Any building, shed, fence or other man-made structure which, because of its faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard.
- C. Any building, shed, fence or other man-made structure which, by reason of faulty construction or any other

cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure.

- D. Any building, shed, fence or other man-made structure which, because of its condition or because of a lack of doors or windows, is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.

§ 121-7. Declaration of public nuisance.

Any such dangerous building in the borough is hereby declared to be a nuisance.

§ 121-8. Dangerous buildings prohibited.

It shall be unlawful to maintain or permit the existence of any dangerous building in the borough, and it shall be unlawful for the owner, occupant or person in custody of any dangerous building to permit the same to remain in a dangerous condition or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition.

§ 121-9. Issuance of notice.

Whenever the Building Inspector, the Fire Chief or his designee, the Health Officer or Inspector or some person designated by the Council shall be of the opinion that any building or structure in the borough is a dangerous building, he shall file a written statement to that effect with the Borough Secretary. The Secretary shall thereupon cause written notice to be served upon the owner thereof and upon the occupant thereof, if any, by certified mail or by personal service or by posting said notice on the front of said property if personal service or mailing of the notice does not effectuate service. Such notice shall state that the building has been declared to be in a dangerous condition and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it and that the condition must be remedied at once.

§ 121-10 HOUSING & PROPERTY MAINTENANCE § 121-13

§ 121-10. Failure to comply.

If the person receiving the notice has not complied therewith, or taken an appeal from the determination of the officer or employee finding that a dangerous building exists, within ten (10) days from the time when the notice is served upon such person by personal service or certified mail or posting, the Building Inspector or employee of the Council may, upon order of the Council, proceed to remedy the condition or demolish the dangerous building.

§ 121-11. Repair, vacation or demolition.

All dangerous buildings within the definitions hereinbefore mentioned are hereby declared to be public nuisances and shall be repaired, vacated or demolished, as herein provided.

§ 121-12. Lien for cost incurred.

The Borough of Mahanoy City may, upon failure of the owner to reimburse the borough for costs incurred in the demolition or destruction of any building under this chapter, file the appropriate liens in the courts of Schuylkill County to recover any and all expenses incurred by the Borough of Mahanoy City, plus costs and a penalty of ten percent (10%) of the costs and expenses.

§ 121-13. Violations and penalties.

- A. The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish said building given by any person authorized by this chapter to give such notice or order shall, upon conviction, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of such proceedings or, upon default of payment of such fine and costs, by imprisonment in the county jail for a term of not more than thirty (30) days; provided, however, that if the District Justice determines that the defendant is without the financial means to pay the fines and costs immediately or in a single remittance, such defendant shall be permitted to pay

the fines or costs in installments and over such periods of time as the District Justice deems to be just.

- B. The occupant or lessee in possession who fails to comply with any order to repair, vacate or demolish said building given by any person authorized by this chapter to give such notice or order shall, upon conviction, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of such proceedings or, upon default of payment of such fine and costs, by imprisonment in the county jail for a term not more than thirty (30) days; provided, however, that if the District Justice determines that the defendant is without the financial means to pay the fines and costs immediately or in a single remittance, such defendant shall be permitted to pay the fines or costs in installments and over such periods of time as the District Justice deems to be just.
- C. Each day's continuance of a violation shall constitute a separate offense.
- D. The sanctions and penalties imposed by this section are in addition to the liens authorized by § 121-12, and the imposition of liens shall not act as a bar to the imposition of fines and/or prison term and vice versa.

Chapter 122**ILLEGAL IMMIGRATION**

§ 122-1. Title.

§ 122-2. Findings and declaration of purpose.

§ 122-3. Definitions.

§ 122-4. Business permits, contracts or grants.

§ 122-5. Renting to illegal aliens.

§ 122-6. English only.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 8-8-2006 by Ord. No. 2006-2. Amendments noted where applicable.]

§ 122-1. Title.

This chapter shall be known and may be cited as the "Borough of Mahanoy City Illegal Immigration Relief Act Ordinance."

§ 122-2. Findings and declaration of purpose.

The people of the Borough of Mahanoy City find and declare:

- A. That illegal immigration leads to higher crime rates, contributes to overcrowded classrooms and failing schools, subjects our hospitals to fiscal hardship and legal residents to substandard quality of care, and destroys our neighborhoods and diminishes our overall quality of life.
- B. That the Borough of Mahanoy City is empowered and mandated by the people of the Borough of Mahanoy City

to abate the nuisance of illegal immigration by aggressively prohibiting and punishing the acts, policies, people and businesses that aid and abet illegal aliens.

§ 122-3. Definitions.

Whenever used in this chapter, the following terms shall have the following meanings:

BOROUGH — The Borough of Mahanoy City.

CONTRACT EMPLOYER — Any person who obtains the services of one or more individuals through a day labor agency.

VEHICLE — A vehicle as defined in the Pennsylvania Vehicle Code as the same now reads or may hereafter be amended.

§ 122-4. Business permits, contracts or grants.

Any for-profit entity, including acts committed by its parent company or subsidiaries that aids and abets illegal aliens or illegal immigration shall be denied approval of a business permit, the renewal of a business permit, Borough contracts or grants for a period not less than five years from its last offense.

- A. Aiding and abetting shall include, but not be limited to, the hiring or attempted hiring of illegal aliens, renting or leasing to illegal aliens, or funding or aiding in the establishment of a day laborer center that does not verify legal work status.
- B. Any act that aids and abets illegal aliens within the United States, not just within the Borough limits, will constitute a violation.

§ 122-5. Renting to illegal aliens.

- A. Illegal aliens are prohibited from leasing or renting property. Any property owner or renter/tenant/lessee in control of property, who knowingly allows an illegal alien to use, rent or lease their property shall be in violation of this section.
- B. Any person or entity that violates this section shall be subject to a fine of not less than \$1,000.

§ 122-6. English only.

- A. The Borough of Mahanoy City declares that English is the official language of the Borough.
- B. Unless explicitly mandated by the federal government, the State of Pennsylvania or the Borough of Mahanoy City, all official Borough business, forms, documents, signage, telecommunication or electronic communication devices will be conducted or written in or utilize English only.

Chapter 123

INSURANCE

ARTICLE I

Payment of Fire Loss Claims

- § 123-1. Enforcement official.
- § 123-2. Certificate required prior to payment of claims.
- § 123-3. Procedure for payments to municipality.
- § 123-4. Rules and regulations; fees.
- § 123-5. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City: Art. I, 11-11-1992 as Ord. No. 92-8, approved 11-11-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Arsonists — See Ch. 67.
Fire prevention — See Ch. 102.

ARTICLE I

Payment of Fire Loss Claims

[Adopted 11-11-1992 as Ord. No. 92-8]

- § 123-1. Enforcement official.

The Secretary-Treasurer of the Borough of Mahanoy City is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

§ 123-2. Certificate required prior to payment of claims.

No insurance company, association or exchange (hereinafter the "insuring agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located with the Borough of Mahanoy City (hereinafter the "municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000.), unless the named insured or insuring agent is furnished by the Municipal Treasurer with a municipal certificate pursuant to Section 508(b) of Act 98 of 1992¹ and unless there is compliance with Section 508(c) and (d) of Act 98 of 1992² and the provisions of this Article.

§ 123-3. Procedure for payments to municipality.

A. Where pursuant to Section 508(b)(1)(i) of Act 98 of 1992,³ the Municipal Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the insuring agent shall pay the claim of the named insured; provided, however, that if the loss, as agreed upon by the named insured and the insuring agent, equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

- (1) The insuring agent shall transfer from the insurance proceeds to the designated officer of the municipality in the aggregate of one thousand dollars (\$1,000.) for each twenty thousand dollars (\$20,000.) of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is twenty thousand dollars (\$20,000.) or less, the amount transferred to the municipality shall be one thousand dollars (\$1,000.); or if at the time of a proof of loss agreed to between the named insured and the insuring agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the insuring agent shall transfer to the

¹ Editor's Note: See 40 P.S. § 638(b).

² Editor's Note: See 40 P.S. § 638(c) and (d).

³ Editor's Note: See 40 P.S. § 638(b)(1)(i).

municipality from the insurance proceeds the amount specified in the estimate.

- (2) The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure.
- (3) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the designated officer shall return the amount of the funds transferred to the municipality in excess of the estimate to the named insured if the municipality has not commenced to remove, repair or secure the building or other structure.
- (4) Upon receipt of proceeds under this section, the municipality shall do the following:
 - (a) The designated officer shall place the proceeds in the separate fund to be used solely as security against the total costs of removing, repairing or securing the building or structure which are incurred by the municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceedings related thereto.
 - (b) It is the obligation of the insuring agent, when transferring the proceeds, to provide the municipality with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the designated officer shall contact the named insured, certify that the proceeds have been received by the municipality and notify the named insured that the procedures under this subsection shall be followed.
 - (c) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the municipality and the required proof of such comple-

tion received by the designated officer, and if the municipality has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the municipality has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund, and if excess funds remain, the municipality shall transfer the remaining funds to the named insured.

- (d) To the extent that interest is earned on proceeds held by the municipality pursuant to this section and not returned to the named insured, such interest shall belong to the municipality. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.

- B. Nothing in this section shall be construed to limit the ability of the municipality to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the municipality and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

§ 123-4. Rules and regulations; fees.

The Borough of Mahanoy City may, by resolution, adopt procedures and regulations to implement Act 98 of 1992 and this Article and may, by resolution, fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this Article, including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.⁴

⁴ Editor's Note: Current resolutions are on file in the office of the Borough Secretary.

§ 123-5. Violations and penalties.

Any owner of property, any named insured or any insuring agent who violates this Article shall be subject to a penalty of up to one thousand dollars (\$1,000.) per violation.

Chapter 126

LASER BEAM POINTERS

§ 126-1. Definitions.

§ 126-2. Laser beam devices; unlawful acts.

§ 126-3. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 6-8-1999 by Ord. No. 99-1. Amendments noted where applicable.]

§ 126-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

LASER POINTER — Any device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.

PERSON — Any natural person, corporation, partnership, firm, organization or other legal entity.

PUBLIC PLACE — A place to which the public or a substantial group of persons has access, and includes, but it not limited to, any street, highway, parking lot, plaza, transportation facility, place of amusement, park, playground and any hallway, lobby and other portion of an apartment house or hotel not constituting a room or apartment designed for actual residence.

§ 126-2. Laser beam devices; unlawful acts.

- A. It shall be unlawful for any person to focus, point or shine a laser beam directly or indirectly upon another

person or animal in a public place in such a manner as to reasonably cause harassment or annoyance to said person or animal.

- B. It shall be unlawful for any person to direct light from a laser pointer at a uniformed police officer, uniformed security guard, uniformed school safety officer, uniformed traffic enforcement agent, uniformed member of a paid or volunteer fire department, uniformed emergency medical service worker or uniformed ambulance worker, or other uniformed city, state or federal peace officer, investigator or emergency service worker, or the marked service vehicle of any such individual.

§ 126-3. Violations and penalties.

Any person or association or persons convicted of a violation of any provision in this chapter shall, upon conviction, be subject to a fine not exceeding \$1,000 or 90 days imprisonment in the county jail or for a period of community service not exceeding 90 days, or any combination of the three.

LITTERING

Chapter 128

LITTERING

- § 128-1. Legislative findings and purpose.
- § 128-2. Definitions and word usage.
- § 128-3. Littering in public places.
- § 128-4. Placing litter in receptacles to prevent scattering.
- § 128-5. Sweeping litter into gutters and streets.
- § 128-6. Littering from vehicles.
- § 128-7. Trucks causing litter.
- § 128-8. Litter in parks.
- § 128-9. Litter in public waters.
- § 128-10. Handbills in public places.
- § 128-11. Handbills on vehicles.
- § 128-12. Handbills on vacant private premises.
- § 128-13. Handbills on inhabited private premises.
- § 128-14. Litter on private and commercial premises.
- § 128-15. Owners to maintain commercial premises litter-free.
- § 128-16. Owners to maintain private premises litter-free.
- § 128-17. Litter on vacant lots.
- § 128-18. Removal of litter by owner.
- § 128-19. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage, rubbish and refuse — See Ch. 113.

Housing and property maintenance — See Ch. 121.

§ 128-1. Legislative findings and purpose.

It is hereby declared and found that litter carelessly deposited in the borough is the cause of civic disgrace; that litter is a health, fire and safety hazard and pollutant; that an all-out litter-control campaign can result in substantial savings to taxpayers of the borough; and that litter is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public health, safety and general welfare of the people of the borough.

§ 128-2. Definitions and word usage.

A. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

BOROUGH — The Borough of Mahanoy City in the County of Schuylkill.

COMMERCIAL HANDBILL — Any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copy of any matter of literature which:

- (1) Advertises for sale any merchandise, product, commodity or thing.
- (2) Directs attention to any business or mercantile or commercial establishment or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales.
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

COMMERCIAL PLACE — Any store or building or group thereof wherein mercantile activities and services are offered to the public, and includes all parking areas thereat.

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

LITTER — Garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare or creates unsightliness.

NEWSPAPER — Any newspaper of general circulation, as defined by law; any newspaper duly entered with the Post Office Department of the United States in accordance with federal statute or regulation; and any newspaper filed and recorded with any recording officer as provided by law. In addition thereto, such term shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public.

NONCOMMERCIAL HANDBILL — Any printed or written matter, any sample or device, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copy of any matter of literature not included in the aforesaid definitions of a "commercial handbill" and "newspaper."

PARK — A park, reservation, playground, beach, recreation center or any other public area in the borough owned or used by the borough and devoted to active or passive recreation.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES — Any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE — Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

REFUSE — All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

- B. Word usage. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

§ 128-3. Littering in public places.

No person shall deposit or throw litter in or upon any street, sidewalk or other public place within the borough except in public receptacles, private receptacles for collection, in official borough dumps or in rubbish pits.

§ 128-4. Placing litter in receptacles to prevent scattering.

Persons placing litter in public receptacles or in private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 128-5. Sweeping litter into gutters and streets.

No person shall sweep or deposit in any gutter, street or other public place within the borough the accumulation of litter from any building or litter from any public sidewalk or driveway.

§ 128-6. Littering from vehicles.

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or public place within the borough or upon private property.

§ 128-7. Trucks causing litter.

No person shall drive or move any truck or other vehicle within the borough unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place; nor shall any person drive or move any vehicle or truck within the borough, the wheels or tires of which carry onto or deposit in any street, alley or other public place any mud, dirt, sticky substances, litter or foreign matter of any kind.

§ 128-8. Litter in parks.

No person shall throw or deposit litter in any park or playground within the borough except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or playground or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away

§ 128-8. Litter in public places.

from the park or playground by the person responsible for its presence and properly disposed of elsewhere as provided herein.

§ 128-9. Litter in public waters.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the borough.

§ 128-10. Handbills in public places.

No person shall throw or deposit any commercial or non-commercial handbills in or upon any sidewalk, street or other public place within the borough.

§ 128-11. Handbills on vehicles.

No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

§ 128-12. Handbills on vacant private premises.

No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

§ 128-13. Handbills on inhabited private premises.

- A. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises.

- B. Exemption for mail and newspapers. The provisions of this section shall not apply to the distribution of mail by the United States or of newspapers (as defined herein), except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street or other public place or upon private property.

§ 128-14. Litter on private and commercial premises.

No person shall throw or deposit litter on any occupied private property or commercial place within the borough, whether owned by such person or not, except that the owner or person in control of such private property or commercial place may maintain authorized private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street or other public place or upon any private property.

§ 128-15. Owners to maintain commercial premises litter-free.

Each owner or person in control of any commercial place shall keep said place, parking areas and other open areas which are a part of such commercial place free from litter.

§ 128-16. Owners to maintain private premises litter-free.

The owner or person in control of any private property shall at all times maintain the premises free from litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 128-17. Litter on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the borough, whether owned by such person or not.

§ 128-18. Removal of litter by owner.

- A. Notice to remove. The Borough of Mahanoy City is hereby authorized and empowered to notify the owner of any open or vacant private property within the borough, or the agent of such owner, to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by certified mail addressed to said owner at his last known address.
- B. Action upon noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within five (5) days after receipt of written notice provided for in Subsection A above, the owner shall be cited for violation in accordance with the provisions of this chapter, and, in addition, the borough may perform or cause to be performed such work as is necessary to remove and dispose of the litter on said property. The costs of such work may be assessed against the property and collected as provided by law.

§ 128-19. Violations and penalties.

Any person who shall be convicted of violating or failing to comply with the provisions of this chapter shall be subject to a fine of not more than three hundred dollars (\$300.), plus costs of prosecution, and in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of a violation may be punished as provided above for each separate offense.

§ 131-1

LOITERING

§ 131-1

Chapter 131

LOITERING

§ 131-1. Purpose.

§ 131-2. Definitions.

§ 131-3. Types of loitering prohibited.

§ 131-4. Enforcement and exemption.

§ 131-5. Offenses by minors.

§ 131-6. Responsibility of parents.

§ 131-7. Violations and penalties.

[**HISTORY:** Adopted by the Borough Council of the Borough of Mahanoy City 2-8-2000 by Ord. No. 2000-1, approved 2-8-2000.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Curfew — See Ch. 83.

§ 131-1. Purpose.

The purposes of this chapter are the protection of the public health, safety, morals and general welfare, the reduction in the incidence of criminal activity associated with loitering and the enforcement of parental control of and responsibility for their children.

¹ Editor's Note: This ordinance superseded former Ch. 131, Loitering, adopted 5-5-1981 by Ord. No. 81-3, approved 5-5-1981.

§ 131-2. Definitions.

As used in this chapter, the following terms shall have the meanings given herein:

CONTROLLED SUBSTANCE — A drug, substance or other immediate precursor, as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 7808-101 et seq., as hereafter amended, supplemented or modified or reenacted by the General Assembly of Pennsylvania.

DRUG PARAPHERNALIA — Any act, device, instrument, apparatus or contrivance, the primary and exclusive use of which is involved with the illegal use and possession of any and all controlled and contraband substances as defined by the laws of Pennsylvania.

LOITERING — Lingered, staying, remaining or waiting at one location.

MALICIOUS — Vexatious, annoying, defiant, injurious or with intent to do a wrongful act.

MINOR — Any person under the age of 18 years.

MOTORIZED or NONMOTORIZED CONVEYANCE — Any motorized or nonmotorized vehicle capable of conveying one or more persons, to include, but not be limited to, motor vehicles, motorcycles, bicycles, skateboards, roller skates, dirtbikes, motor scooters and all-terrain vehicles.

PARENT or GUARDIAN — Includes any adult person having the care or custody of a minor as a natural or adoptive parent, as a legal guardian, as a person who stands in loco parentis or as a person to whom legal custody has been given by court order.

PROWLING — Roving or wandering in a stealthful manner.

PUBLIC PLACE — Any place to which the general public has access and includes any street, highway, road,

alley or sidewalk. It also includes the doorways, entryways, porches, stairs, railings and ornamentation in front of the immediate area of any store, shop, restaurant, tavern or other place of business, and also public grounds, areas and parks, as well as parking lots of other vacant property not owned by or under the control of a person charged with violating this chapter or, in the case of a minor, not owned by or under the control of his/her parent or guardian.

§ 131-3. Types of loitering prohibited.

It shall be unlawful for any person or group of persons, either on foot or as the operator or passenger of any motorized or nonmotorized conveyance, to maliciously loiter or prowl in a public place or residential neighborhood, when such loitering:

- A. Obstructs, hinders or impedes, or tends to obstruct, hinder or impede, the free and uninterrupted passage of vehicles, traffic or pedestrians.
- B. Obstructs or interferes with any person lawfully in any public place.
- C. Results in, aids or abets the commission of any act or thing which is an obstruction to or interference with the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on such public place, all of which prevents the free and uninterrupted ingress, egress and regress therein, thereon and thereto.
- D. Results in, aids or abets the making or causing to be made any loud, boisterous and unreasonable noise with intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof.
- E. Results in, aids or abets the making of abusive remarks or epithets directed to any person when such remarks have a tendency to create an immediate threat to public safety, peace or order. Included in this section are

abusive remarks of a racial, religious, ethnic or sexist nature.

- F. Results in, aids or abets the damage to or destruction of tangible property of another person.
- G. Takes place in a public park within the borough between the hours of sunset and sunrise.
- H. Is in defiance of notice against loitering given by:
 - (1) Prior warning to the actor by the owner, occupant or agent of the owner of the property or by a police officer acting on the request of or as an authorized agent of the owner or occupant of the property.
 - (2) Actual communication to the actor by the owner, occupant or agent of the owner of the property or by a police officer acting on the request of or as an authorized agent of the owner or occupant of the property.
 - (3) Posting in a manner reasonably likely to come to the attention of loiterers.
 - (4) Fencing or other enclosure manifestly designed to exclude loiterers and/or trespassers.
- I. Can be reasonably perceived through a period of observation by trained police officers to involve overt acts or conduct which might suggest probable cause of the intent or desire to engage in the sale, purchase, manufacture, possession or transfer of alcoholic beverages or a controlled substance or other drug, or drug paraphernalia, or commit some other violation of the Drug, Device and Cosmetic Act (P.L. 233 of April 14, 1972, as amended),² when such overt acts or conduct include, but are not limited to:
 - (1) The repeated beckoning to, stopping or attempting to stop or the repeated engagement in conversation

² Editor's Note: See 35 P.S. § 7808-101 et seq.

with pedestrians or motorists on a public thoroughfare or some other public place;

- (2) The repeated passing of money, objects or written material to or the receipt of money, objects or written material from pedestrians or motorists on a public thoroughfare or some other public place; or
- (3) The repeated accessing of items on or areas of public or private property (e.g., planters, receptacles, etc.) suggesting the accessing or concealing of contraband.

§ 131-4. Enforcement and exemption.

- A. Except as provided in Subsections B and C below, a police officer who has probable cause to believe any person(s) is(are) causing or committing any of the conditions enumerated in § 131-3 herein, and unless flight by the person or other exigent circumstances make it impracticable, shall:
 - (1) Afford the actor(s) an opportunity to dispel any alarm which would otherwise be warranted by requesting the actor(s) to identify themselves and explain their presence and conduct;
 - (2) Direct the actor(s) to cease their unlawful activity(ies) and to move on or disperse if they are unable to provide a legitimate and credible explanation of their presence and/or actions; and
 - (3) Inform the actor(s) that failure to obey the orders to cease such unlawful action or to move on or disperse will be in violation of this chapter and that resumption of any similar unlawful activity will also be considered a violation of this chapter.
- B. In areas which have been properly posted with visible "no loitering" or "no trespassing" signage by the owner or occupant of the property, and when the actor(s) is(are) not able to provide a legitimate and credible explanation

of their presence and/or actions, their presence and/or actions shall be considered to be in defiance of said signage, and the prior warning requirements of Subsection A above will not necessarily apply.

- C. For actor(s) who has(have) already received prior warning under this chapter from any police officer for similar activity in the same or a similar general area of the Borough, their presence and/or actions shall be considered to be in defiance of said warning, and the prior warning requirements of Subsection A above will not apply.
- D. The provisions of this chapter shall not apply to police officers performing their official duties and/or acting pursuant to departmental policies and procedures.

§ 131-5. Offenses by minors.

Where minor children engage in activities solely in violation of this chapter, and where no other actual or suspected violation of law requires additional police action, police officers shall, in addition to the requirements of § 131-4A and B above:

- A. Obtain information from such minor as to his name, address, age and the name of his parent(s) or guardian(s);
- B. Instruct the minor to proceed to his/her residence forthwith, so long as the information obtained above is believed to be legitimate and credible;
- C. Make and document contact with the minor's parent(s) or guardian(s), advising them of the violation of this chapter and of their responsibilities as set forth in § 131-6 below; and
- D. Forward the information obtained from the minor, together with a report of the incident and a copy of any citation(s) which may be issued/filed to the Police Department's appointed Juvenile Officer, who shall

maintain and make available for future enforcement actions records of all prior warnings issued to juveniles.

§ 131-6. Responsibility of parents.

Any parent or guardian who, after having received a written notice of their minor child's violation of this chapter, knowingly permits or allows such minor to commit subsequent violations of this chapter shall themselves be in violation of this chapter and subject to its penalties. The term "knowingly" as used herein includes knowledge which a parent should reasonably be expected to have concerning the whereabouts, activities or conduct of a minor in that parent or guardian's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test.

§ 131-7. Violations and penalties.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punishable for each offense by a fine of no less than \$50 nor more than \$100 for a first conviction, and a fine of no less than \$100 nor more than \$500 for second or subsequent convictions, and/or by imprisonment in the county jail for a period of time to be determined by the courts applying current sentencing guidelines.

Chapter 133

LOW- AND MODERATE-INCOME HOUSING

§ 133-1. Authorization of programs.

§ 133-2. Programs to be developed by borough.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 3-3-87 as Ord. No. 87-2, approved 3-3-87 Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 72.

§ 133-1. Authorization.

Pursuant to Section 1 of the Act of December 10, 1974, No. 292 (authorizing municipalities to expend federal general revenue sharing or general funds for social service programs...), which was amended by the Act of December 3, 1975, No. 141, the Borough Council of the Borough of Mahanoy City hereby authorizes programs of rehabilitation of low- to-middle-income housing.

§ 133-2. Programs to be developed by borough.

The rehabilitation programs shall be developed by the borough. By resolution, the Borough Council shall approve the general program including specific delineations of the geographic areas eligible for assistance, restrictions applicable to applicant eligibility, including income limits for various forms of financial assistance and limitation on the extent or rehabilitation to be completed under the program. Financial assistance from the Borough of Mahanoy City for the programs shall be limited to the budgeted amount of the borough's Federal Community Development Block Grant Funds (Small Cities

Chapter 136

MECHANICAL STANDARDS

§ 136-1. Adoption of standards.

§ 136-2. Additions, insertions and changes.

§ 136-3. Interpretation.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 5-4-76 as Ord. No. 382, approved 5-12-76. Sections 136-1 and 136-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 72.

Electrical standards — See Ch. 88.

Fire prevention — See Ch. 102.

Furnaces and fuel oil — See Ch. 108.

Gasoline and liquefied gas — See Ch. 116.

§ 136-1. Adoption of standards.¹

A certain document, three (3) copies of which are on file in the office of the Borough of Mahanoy City Secretary of the Borough of Mahanoy City, County of Schuylkill, being marked and designated as "The BOCA Basic Mechanical Code/1978," as published by the Building Officials and Code Administrators International, Inc., is hereby adopted as the Mechanical Code of the Borough of Mahanoy City, County of Schuylkill, in the State of Pennsylvania, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the BOCA Basic Mechanical Code/1978 are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 136-2.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 136-2. Additions, insertions and changes.²

The following sections are hereby revised as follows:

- A. Section M-100.1 (page 1, second line): Borough of Mahanoy City.

§ 136-3. Interpretation.

Nothing in this chapter or in the Mechanical 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 accrued or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

² Editor's Note: Amended at time of adoption of Code; see Ch. I, General Provisions, Art. I. For possible revisions made in the text of the BOCA Basic Mechanical Code/1978, by the filling in of blanks or otherwise, see the copy of the said BOCA Basic Mechanical Code/1978 on file in the office of the Borough Secretary.

Chapter 138

MOVING PERMITS

- § 138-1. Permit required.
- § 138-2. Filing of application; fee.
- § 138-3. Report of occupancy of leased dwellings.
- § 138-4. Application for removal permit.
- § 138-5. Issuance of permit.
- § 138-6. Moving of personal property.
- § 138-7. Construal.
- § 138-8. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 11-8-84 as Ord. No. 84-2, approved 11-8-84.¹ Amendments noted where applicable.]

§ 138-1. Permit required.

On and after the effective date of this chapter, no person, firm or corporation shall move into or remove from, or cause his personal property to be so moved into or removed from, any house, dwelling or other building within the Borough of Mahanoy City without first having obtained a permit therefor from the Borough Tax Collector.

§ 138-2. Filing of application; fee.

Every person, firm or corporation seeking a permit to occupy any premises shall file an application with the Borough Tax Collector, setting forth his name, location of the premises, name of

¹ Editor's Note: This ordinance provided that it take effect 1-1-85.

owner and his address, the nature of the proposed use of the building, and if for residence purposes, the names and ages of the occupants, and such permits shall be secured from the Borough Tax Collector. A fee of two dollars (\$2.) shall be charged for said permit.

§ 138-3. Report of occupancy of leased dwellings.

Every person, firm or corporation which leases or permits the occupancy of any dwelling unit, mobile home site, room or set of rooms or apartment to any other person or persons for dwelling purposes shall report to the Borough Tax Collector on or before January 1, 1985, and annually thereafter on or before March 1, of each succeeding year, the name and address of each occupant and whether or not such occupant is over or under the age of eighteen (18) years. Said report shall be made on forms prescribed by the Borough Tax Collector.

§ 138-4. Application for removal permit.

Every person, firm or corporation seeking a permit to remove from any premises shall file an application with the Borough Tax Collector, setting forth his name, address and the expected time of departure, and attach thereto receipted tax bills for the current year.

§ 138-5. Issuance of permit.

Upon the filing of the application, it shall be the duty of the Borough Tax Collector to issue the requested permit if the indicated use does not violate any of the ordinances of the borough or if there are no outstanding obligations due the borough.

§ 138-6. Moving of personal property.

It shall be unlawful for any person, firm or corporation to transport or remove personal property of another person which said person is moving into or removing from a house, dwelling or other

building within the Borough of Mahanoy City unless such person so moving into or removing from said Borough of Mahanoy City shall have first obtained the permit as hereinafter provided. It shall be the duty of such person, firm or corporation transporting or removing the personal property of another person to or from the Borough of Mahanoy City to ascertain that the person, firm or corporation whose property is to be so transported or removed has obtained the permit as hereinafter required.

§ 138-7. Construal.

Nothing contained in this chapter shall be construed to require any owner of tangible personal property held for the purpose of manufacturing in the ordinary course of his business or held for the purpose of sale or resale in the ordinary course of business to obtain any such permit to transport or remove such tangible personal property from or to any storehouse, warehouse or usual place of business.

§ 138-8. Violations and penalties.

Any person who shall violate any provisions of this chapter shall, upon conviction thereof, be liable to a fine of not more than three hundred dollars (\$300.) or to imprisonment in the county jail for a term of not more than thirty (30) days, or both. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 140**OCCUPANCY PERMITS**

- § 140-1. **Permit required.**
- § 140-2. **Application; fee.**
- § 140-3. **Issuance.**
- § 140-4. **Report of occupancy.**
- § 140-5. **Violations and penalties.**

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 7-5-1988 by Ord. No. 88-1, approved 7-5-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 72.
Moving permits — See Ch. 138.

§ 140-1. Permit required.

On or after the effective date of this chapter, no person, persons, firm or corporation shall move into or occupy any dwelling, building or other structure within the Borough of Mahanoy City without first having obtained a permit therefor from the Borough Code Enforcement Officer, unless said person, persons, firm or corporation owns said premises in fee simple on or before the effective date of this chapter.

§ 140-2. Application; fee.

- A. Every person or persons, firm or corporation seeking a permit to occupy any premises shall file an application with the Borough Secretary, setting forth his name,

location of the premises, name of the owner of the premises and his address, the nature of the proposed use of the building and the names and ages of the occupants thereof, and such permits shall be secured from the Borough Code Enforcement Officer.

- B. A fee of \$25 shall be charged for said permit. In addition, a security deposit equal to the fee for six months of Borough garbage collection will be required. The deposit will be refundable at the time the property is vacated, if and only if the garbage account is paid to date. Delinquency of three months or more on a garbage account will result in forfeiture of security deposit. Additionally, no permit shall be issued under this section in the event a delinquency on the garbage account exists for any property owned or occupied by the person or persons seeking to obtain a permit under this section. Also, no permit shall be issued under this section for any property owned by an individual who has a delinquent garbage account for any of his properties within the Borough. **[Amended 3-6-1990 by Ord. No. 90-2, approved 3-6-1990; 2-9-1993 by Ord. No. 93-1, approved 2-9-1993; 2-11-2003 by Ord. No. 2003-2, approved 2-11-2003]**

§ 140-3. Issuance. [Amended 2-11-2003 by Ord. No. 2003-2, approved 2-11-2003]

Upon the filing of the application, it shall be the duty of the Borough Code Enforcement Officer to issue the requested occupancy permit permitting the applicant to occupy the premises for which the permit is applied if the person or persons applying for said permit are current on the garbage account for the premises intended to be occupied with said permit and are current on the garbage account for any other property owned or occupied by said person or persons within the Borough, if the owner of the premises is not delinquent on his garbage account for any property owned by that individual within the Borough, and if the indicated use of said premises

does not violate any of the ordinances of the Borough and if the premises is fit for human habitation as a dwelling place or fit for any other purpose for which the applicant is seeking the permit.

§ 140-4. Report of occupancy.

It is the duty of each seller of real estate in the Borough of Mahanoy City and it is the duty of any realtor involved in the selling, renting, leasing or occupancy of any structure within the Borough of Mahanoy City to report such proposed occupancy to the Secretary of the Borough of Mahanoy City prior to the premises' being occupied. It is also the duty of any such seller or realtor of such a premises to notify the potential occupant of the premises of his duty to seek an occupancy permit. No one shall permit another to occupy such a premises prior to the issuance of a permit for the same.

§ 140-5. Violations and penalties.

Any person who shall violate any provisions of this chapter shall, upon conviction thereof, be liable to a fine of not more than \$300 or to imprisonment in the county jail for a term of not more than 30 days, or both. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Chapter 143

PEDDLING AND SOLICITING

- § 143-1. Definitions.
- § 143-2. License required.
- § 143-3. Application for license.
- § 143-4. License fee.
- § 143-5. Issuance of license; contents; possession.
- § 143-6. When peddling permitted.
- § 143-7. Street peddling; noise devices.
- § 143-8. Disposal of refuse; curbstome markets.
- § 143-9. Fixed locations not permitted.
- § 143-10. Record of licenses.
- § 143-11. Revocation of license.
- § 143-12. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 11-9-55 as Ord. No. 276, approved 11-9-55. Section 143-12 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Transient merchants -- See Ch. 174.

§ 143-1. Definitions.

- A. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

PEDDLER — Any person who shall engage in peddling, as herein defined.

PEDDLING — Engaging in peddling, canvassing, soliciting or taking of orders, either by sample or otherwise, for any goods, wares or merchandise, upon any of the streets or sidewalks or from house to house within the Borough of Mahanoy City; provided that the word "peddling" shall not apply to farmers selling their own produce, nor to the sale of goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose, nor to any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk and milk products.

PERSON — Any natural person, association, partnership, firm or corporation.

- B. Word usage. In this chapter the singular shall include the plural, and the masculine shall include the feminine and the neuter.

§ 143-2. License required.

No person shall engage in peddling in the Borough of Mahanoy City without first having taken out a license as herein provided.

§ 143-3. Application for license.

Every person desiring to engage in peddling in the Borough of Mahanoy City shall first make application to the Mayor for a license. Upon such application, such person shall give his name; address; his previous criminal record, if any; the name of the person for whom he works, if any; the type of goods, wares and merchandise he wishes to peddle; the type of vehicle he uses, if any, and the number of helpers he has; provided that where a person makes application for himself and one (1) or more helpers, all applicable personal information specified above shall be given for each helper. No license issued under this chapter shall be transferable from one person to another.

§ 143-4. License fee.

The license fee shall be one hundred dollars (\$100.) for one (1) year or any part thereof, the year to commence from the date of the issuance of said license.

§ 143-5. Issuance of license; contents; possession.

Upon making application therefor and upon approval by the Mayor and paying the proper fee as herein specified, a license shall be issued to every peddler. Such license shall contain the information required to be given upon the application therefor. Every peddler shall at all times when engaged in peddling in the borough carry such license upon his person and shall exhibit such license upon request to all police officers, borough officials and citizens. No peddler shall engage in selling any product not mentioned upon such license.

§ 143-6. When peddling permitted.

No person licensed as a peddler under this chapter shall engage in peddling at any time on Sunday or upon any other day of the week before 9:00 a.m. or after 5:00 p.m.

§ 143-7. Street peddling; noise devices.

No person licensed as a peddler under this chapter shall hawk or cry his wares upon any of the streets or sidewalks of the borough, nor shall he use any loudspeaker or horn or any other device for announcing his presence by which the public is annoyed.

§ 143-8. Disposal of refuse; curbstome markets.

No person licensed as a peddler under this chapter shall place or deposit any refuse upon any of the streets or alleys, nor may any such person maintain or keep a street or curbstome market by parking any vehicle upon any street or alley in the borough for longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.

§ 143-9. Fixed locations not permitted.

No person licensed as a peddler under this chapter shall occupy a fixed location upon any of the streets, alleys or sidewalks of the borough for the purpose of peddling, with or without any stand or counter.

§ 143-10. Record of licenses.

The Mayor shall keep a record of all licenses issued under this chapter. The Mayor and the Chief of Police shall supervise the activities of all holders of such licenses.

§ 143-11. Revocation of license.

The Mayor of the Borough of Mahanoy City is hereby authorized to revoke any license issued under this chapter when he deems such revocation to be beneficial to the public health, safety or morals, or for violation of any of the provisions of this chapter or for false information having been given upon any application for a license hereunder.

§ 143-12. Violations and penalties.¹

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 146

PLUMBING

- § 146-1. Adoption of standards.
- § 146-2. Additions, insertions and changes.
- § 146-3. Saving clause.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 5-4-76 as Ord. No. 385, approved 5-12-76. Sections 146-1 and 146-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 72.
Electrical standards — See Ch. 88.
Housing and property maintenance — See Ch. 121.
Mechanical standards — See Ch. 136.

§ 146-1. Adoption of standards.¹

A certain document, three (3) copies of which are on file in the office of the Borough of Mahanoy City Secretary of the Borough of Mahanoy City, being marked and designated as the "BOCA Basic Plumbing Code/1978," being the Fourth Edition thereof as published by Building Officials and Code Administrators International, Inc., is hereby adopted as the Plumbing Code of the Borough of Mahanoy City of Schuylkill County in the State of Pennsylvania, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the BOCA Basic Plumbing Code/1978 are hereby referred to, adopted and made a part hereof

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

as if fully set out in this chapter, with the additions, insertions and changes, if any, prescribed in § 146-2 of this chapter.

§ 146-2. Additions, insertions and changes.²

The following sections are hereby revised as follows.³

§ 146-3. Saving clause.

Nothing in this chapter or in the Plumbing 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 accrued or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³ Editor's Note: No additions, insertions or changes were made in the BOCA Basic Plumbing Code by Ord. No. 335. See the copy of the code on file in the office of the Borough Secretary for possible revisions made therein.

Chapter 149

POLES AND WIRES

- § 149-1. Permit required for wires over streets.
- § 149-2. Application for permit.
- § 149-3. Height of wires above street; supports.
- § 149-4. Approval to fasten wires to buildings or utility poles.
- § 149-5. Size and location of poles to be stated.
- § 149-6. Initial inspection and certification; annual inspections.
- § 149-7. Utility companies excepted.
- § 149-8. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 11-7-50 as Ord. No. 251, approved 11-7-50. Section 149-8 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

- § 149-1. Permit required for wires over streets.

No person, corporation or firm shall erect, install or place any wire or wires over or upon any sidewalk or street within the Borough of Mahanoy City without a permit issued by the Borough Secretary.

- § 149-2. Application for permit.

Every application for a permit shall be in writing and shall be accompanied by such drawings, specifications and descriptions as are necessary to fully advise and acquaint the Mayor and the Borough Secretary with the location, construction, material, manner of securing or fastening of such wire or wires, and no

§ 149-2. **MANHATTAN CITY CODE § 149-3**

permit shall be issued for the erection, installation or placing of such wires which do not conform to the provisions of this chapter or which when erected, installed or placed shall be considered unsafe by the Mayor.

§ 149-3. Height of wires above street; supports.

Such wire or wires installed, erected or placed under the authority contained in this chapter and overhanging any sidewalk or street must be placed at least eighteen (18) feet above the sidewalk or street and shall be properly supported, stayed and bolted or anchored with proper supports to buildings or poles.

§ 149-4. Approval to fasten wires to buildings or utility poles.

If the applicant for a permit as provided for by this chapter plans to attach or fasten any overhead wire or wires to the poles of any utility company or to any buildings, the application for the permit shall be accompanied by written approval of said utility companies or owner of said buildings, agreeing to permit the fastening of overhead wires thereto.

§ 149-5. Size and location of poles to be stated.

If the applicant for a permit as provided for by this chapter plans to erect or install poles for the purpose of attaching and fastening overhead wires, the application for the permit shall indicate the number and size of poles to be erected and their location.

§ 149-6. Initial inspection and certification; annual inspections.

- A. After permit has been issued, the wire or wires and installation thereof shall be inspected by the Borough Electrician and approved by the Street Committee, and if found to meet the requirements of this chapter, a certificate of inspection shall be issued by the Borough Secretary without charge.

- B. All such wire, wires and installations shall be inspected and examined by the Borough Electrician at least once a year as to their safety. If such wire or wires or installations are found unsafe or insecure, the owner thereof shall be required to make the same safe and secure within forty-eight (48) hours from the time of notification to that effect in writing from the Mayor, and if such notice is not complied with within the time specified, the wire or wires or installations shall be removed at the expense of the owner.

§ 149-7. Utility companies excepted.

This chapter shall not apply to certificated electric, telephone or telegraph companies in the erection, placement or installation of wires used in rendering service for which they have been certificated.

§ 149-8. Violations and penalties.¹

Any owner or his or its officers or agents violating this chapter or any part thereof, upon conviction thereof, shall be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 154

REFRIGERATORS, ABANDONED

- § 154-1. Certain abandoned refrigerators to be openable from inside.
- § 154-2. Certain abandoned refrigerators to have doors removed.
- § 154-3. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 12-8-53 as Ord. No. 267, approved 12-8-53. Section 154-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

- § 154-1. Certain abandoned refrigerators to be openable from inside.

It shall be unlawful for any person, firm or corporation to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of said icebox, refrigerator or container.

- § 154-2. Certain abandoned refrigerators to have doors removed.¹

It shall be unlawful for any person, firm or corporation to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight snaplock or other device thereon without first removing said doors from said icebox, refrigerator or container.

¹ Editor's Note: Former Section 2 of Ord. No. 267 was deleted at the time of adoption of the Code; see Ch. 1, General Provisions, Art. I.

§ 154-3. Violations and penalties.²

Any person or persons violating any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

SEWERS

Chapter 159

SEWERS

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- § 159-15. Transferring connection from private sewer.**
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- § 159-24. Adoption of standards.**

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 4-8-1980 as Ord. No. 403. Amendments noted where applicable.]

GENERAL REFERENCES

Sewer Authority — See Ch. 28, Art. II

Creeks and drains — See Ch. 80.

Housing and property maintenance — See Ch. 121.

ARTICLE I
Definitions

§ 159-1. Definitions.

Unless the context specifically and clearly indicates otherwise, the meaning of terms and phrases used in this chapter shall be as follows:

(Cont'd on page 15903)

AUTHORITY — Mahanoy City Municipal Authority, a municipality authority of the commonwealth.

BOROUGH — The Borough of Mahanoy City, Schuylkill County, Pennsylvania, a municipal corporation of the commonwealth, acting by and through its Council or, in appropriate cases, acting by and through its authorized representatives.

BUILDING SEWER — The extension from the sewage drainage system of any structure to the lateral of a sewer.

COMMONWEALTH — The Commonwealth of Pennsylvania.

IMPROVED PROPERTY — Any property within this borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

INDUSTRIAL ESTABLISHMENT — Any improved property located in this borough used or intended for use, wholly or in part, for the manufacturing, processing, cleaning, laundering or assembling of any product, commodity or article, or any other improved property located in this borough from which wastes, in addition to or other than sanitary sewage, shall be discharged.

INDUSTRIAL WASTES — Any and all wastes discharged from an industrial establishment, other than sanitary sewage.

LATERAL — That part of the sewer system extending from a sewer to the curblin or, if there shall be no curblin, to the property line, or if no such "lateral" shall be provided, then "lateral" shall mean that portion of or place in a sewer that is provided for connection of any building sewer.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

PERSON — Any individual, partnership, company, association, society, trust, corporation or other group or entity.

SANITARY SEWAGE — Normal water-carried household and toilet wastes from any improved property, including such ground, surface or storm water as may be present.

SEWER — Any pipe or conduit constituting a part of the sewer system used or usable for sewage collection purposes.

SEWER SYSTEM — All facilities, as of any particular time, for collecting, pumping, transporting, treating and disposing of sanitary sewage and/or industrial wastes, situate in or adjacent to this borough and owned by the Authority.

STREET — Any street, road, lane, court, cul-de-sac, alley, public way or public square.

ARTICLE II Use of Public Sewers

§ 159-2. Connections to available sewers required.

The owner of any improved property benefited, improved or accommodated by a sewer shall connect such improved property with such sewer in such manner as this borough may require within forty-five (45) days after notice to such owner from this borough to make such connection, for the purpose of discharge of all sanitary sewage and industrial wastes from such improved property; subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by this borough from time to time.

§ 159-3. Discharge of sewage.

All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a sewer

as required under § 159-2, shall be conducted into a sewer; subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by this borough from time to time.

§ 159-4. Prohibited discharges.

- A. No person shall place or deposit or shall permit to be placed or to be deposited upon public or private property within this borough any sanitary sewage or industrial wastes in violation of § 159-2.
- B. No person shall discharge or shall permit to be discharged to any natural outlet within this borough any sanitary sewage or industrial wastes in violation of § 159-2, except where suitable treatment has been provided which is satisfactory to this borough.

§ 159-5. Discontinuance of use of privy vaults and septic tanks.

- A. No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used or shall be maintained at any time upon any improved property that has been connected to a sewer or that shall be required by § 159-2 to be connected to a sewer.
- B. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of this borough, shall be cleansed and shall be filled, at the expense of the owner of such improved property, under the direction and supervision of this borough; and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by this borough, not cleansed and filled, shall constitute a nuisance, and such nuisance may be abated, as provided by law, at the expense of the owner of such improved property.

§ 159-6. Prohibited connections.

No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a sewer.

§ 159-7. Notice to make connection.

The notice by this borough to make a connection to a sewer, referred to in § 159-2, shall consist of a copy of this chapter, including any amendments and/or supplements at the time in effect, or a summary of each section thereof, and a written or printed document requiring the connection in accordance with the provisions of this chapter and specifying that such connection shall be made within forty-five (45) days from the date such notice is given. Such notice may be given at any time when a sewer is in place which can receive and can convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property. Such notice shall be served upon the owner in accordance with law.

ARTICLE III

Building Sewers and Connections

§ 159-8. Permit required for connection.

No person shall uncover, connect with, make any opening into or use, alter or disturb in any manner any sewer or any part of the sewer system without first obtaining a permit in writing from this borough.

§ 159-9. Application for connection permit.

Application for a permit required under § 159-8 shall be made by the owner of the improved property served or to be served or by the duly authorized agent of such owner.

§ 159-10. Conditions for connections.

No person shall make or shall cause to be made a connection of any improved property with a sewer until such person shall have fulfilled each of the following conditions:

- A. Such person shall have notified the Secretary of this borough of the desire and intention to connect such improved property to a sewer.
- B. Such person shall have applied for and shall have obtained a permit as required by § 159-8.
- C. Such person shall have given the Secretary of this borough at least twenty-four (24) hours' notice of the time when such connection will be made so that this borough may supervise and inspect the work of connection and necessary testing.
- D. If applicable, such person shall have furnished satisfactory evidence to the Secretary of this borough that any tapping (or connection) fee that may be charged and imposed by the Authority against the owner of each improved property who connects such improved property to a sewer has been paid.

§ 159-11. Separate connection for each improved property; exception.

Except as otherwise provided in this section, each improved property shall be connected separately and independently with a sewer through a building sewer. Grouping of more than one (1) improved property on one (1) building sewer shall not be permitted except under special circumstances and for good sanitary reasons or other good cause shown, but then only after special permission of this borough, in writing, shall have been secured and only subject to such rules, regulations and conditions as may be prescribed by this borough.

§ 159-12. Costs of building sewers and connections.

All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to a sewer

shall be borne by the owner of the improved property to be connected; and such owner shall indemnify and shall save harmless this borough and the Authority from all loss or damage that may be occasioned directly or indirectly as a result of construction of a building sewer or of connection of a building sewer to a sewer.

§ 159-13. Designation of places for connection; elevation.

- A. A building sewer shall be connected to a sewer at the place designated by this borough or by the Authority and where, if applicable, the lateral is provided.
- B. The invert of a building sewer at the point of connection shall be at the same or a higher elevation than the invert of the sewer. A smooth, neat joint shall be made and the connection of a building sewer to the lateral shall be made secure and watertight.

§ 159-14. Connections by borough; costs.

If the owner of any improved property benefited, improved or accommodated by a sewer, after forty-five (45) days' notice from this borough requiring the connection of such improved property with a sewer, in accordance with § 159-2, shall fail to connect such improved property as required, this borough may make such connection and may collect from such owner the costs and expenses thereof by a municipal claim, an action in assumpsit or such other legal proceeding as may be permitted by law.

ARTICLE IV
Rules and Regulations

§ 159-15. Transferring connection from private sewer.

Where an improved property, at the time connection to a sewer is required, shall be served by its own sewage disposal system or sewage disposal device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or

sewage disposal device and attachment shall be made, with proper fittings, to continue such house sewer line as a building sewer.

§ 159-16. Inspection of building sewer prior to covering.

No building sewer shall be covered until it has been inspected and approved by this borough. If any part of a building sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to a sewer.

§ 159-17. Maintenance of building sewer.

Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.

§ 159-18. Guarding excavations.

Every excavation for a building sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Any street, sidewalk and other public property disturbed in the course of installation of a building sewer shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to this borough.

§ 159-19. Remedying unsatisfactory conditions.

If any person shall fail or shall refuse, upon receipt of a notice from this borough or the Authority, in writing, to remedy any unsatisfactory condition with respect to a building sewer within forty-five (45) days of receipt of such notice, this borough may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such unsatisfactory condition shall have been remedied to the satisfaction of this borough and the Authority.

§ 159-20. Additional rules authorized.

This borough reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer and with the sewer system, which additional rules and regulations, to the extent appropriate, shall be and shall be construed as a part of this chapter.

ARTICLE V Enforcement

§ 159-21. Violations and penalties.

Any person who shall violate this chapter shall be liable, upon summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine of not less than fifteen dollars (\$15.) nor more than three hundred dollars (\$300.), together with costs of prosecution in each case. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such.

§ 159-22. Recovery of fines and costs.

Fines and costs imposed under provisions of this chapter shall be enforceable and recoverable in the manner and at the time provided by applicable law.

ARTICLE VI Purpose

§ 159-23. Declaration of purpose.

It is declared that enactment of this chapter is necessary for the protection, benefit and preservation of the health, safety and welfare of inhabitants of this borough.

ARTICLE VII

Pretreatment Standards**[Added 2-13-1996 by Ord. No. 96-1, approved 2-13-1996]****§ 159-24. Adoption of standards.**

The Pretreatment Ordinance for the Mahanoy City Sewer Authority prepared by Alfred Benesch and Company, Consulting Engineers, for AB Project No. 7957.02 is hereby adopted by reference as an ordinance of this borough and enforceable as such under the terms and provisions set forth therein. A full and complete copy of the text of the Pretreatment Ordinance is to be maintained at the borough offices, and a copy shall also be maintained at the offices of the Mahanoy City Sewer Authority for inspection by the public.

Chapter 163

SNOW REMOVAL

- § 163-1. Responsibility for clearing sidewalks and gutters.
- § 163-2. Removal by borough; lien for costs.
- § 163-3. Violations and penalties.
- § 163-4. Placing of snow in streets and thoroughfares prohibited.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 10-20-08 as Ord. No. 14, approved 10-21-08. Section 163-2 added and § 163-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 166.

§ 163-1. Responsibility for clearing sidewalks and gutters.

The respective occupants of each and every piece of real estate or separate property within the borough, or if there be no occupant, then the respective owners of each and every piece of unoccupied real estate within the borough, shall clear the snow from the sidewalks and gutters appertaining respectively to said pieces of real estate before 12:00 noon of the next day after a snow shall have fallen.

§ 163-2. Removal by borough; lien for costs. [Added 5-5-81 by Ord. No. 81-3]

If the said occupants or owners of the real estate or separate properties shall fail to remove the said snow as aforesaid, then it

shall be lawful for the Mayor to remove or have removed the said snow. The cost, with twenty percent (20%) of the amount added thereto, shall be charged against the owner or occupant of the premises, and the same shall be collected as debts of like amount are by law collectible. The removal of the said snow by the Mayor of the borough and the collection of the said expenses of removal from the owner or occupant shall in no case relieve such owner or occupant from the fine or penalty provided for in § 163-3.

§ 163-3. Violations and penalties. [Amended 5-5-81 by Ord. No. 81-3]

Each and every owner or occupant who shall violate any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

§ 163-4. Placing of snow in streets and thoroughfares prohibited. [Added 3-8-83 by Ord. No. 83-3]

It shall be unlawful for any person in the Borough of Mahanoy City in removing snow or ice from sidewalks or pavements as required by § 163-1 of this chapter to transfer, shovel, deposit or otherwise place said snow or ice on any portion of any street or public thoroughfare of the borough.

STREETS AND SIDEWALKS

Chapter 166

STREETS AND SIDEWALKS

ARTICLE I Public Streets

- § 166-1. Declaration of public streets.
- § 166-2. Enumeration of certain public streets.
- § 166-3. Existing rights.
- § 166-4. Violations and penalties.

ARTICLE II Sidewalk Construction and Repair

- § 166-5. Notice to construct sidewalk.
- § 166-6. Notice to repair sidewalk.
- § 166-7. Adherence to specifications.
- § 166-8. Sidewalks over coal cellars.
- § 166-9. Adherence to line and grade.
- § 166-10. Duties of Borough Engineer.
- § 166-11. Application for line and grade; notice of completion.
- § 166-12. Application fee.
- § 166-13. Appointment of Engineer; compensation.
- § 166-14. Violations and penalties.
- § 166-15. Additional remedies.

ARTICLE III
Building Materials in Streets

§ 166-16. Permit required; fees.

§ 166-17. Violations and penalties.

ARTICLE IV
Spitting on Streets and in Public Places

§ 166-18. Spitting prohibited in certain places.

§ 166-19. Violations and penalties.

ARTICLE V
Penalties

§ 166-20. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City: Art. I, 10-20-08 as Ord. No. 2, approved 10-21-08; Art. II, 10-3-61 as Ord. No. 309, approved 10-3-61; Art. III, 10-20-08 as Ord. No. 8, approved 10-21-08; Art. IV, 5-5-08 as Ord. No. 78, approved 5-6-08; Art. V, at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Sections 166-4, 166-14, 166-17 and 166-19 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Snow removal — See Ch. 168.

ARTICLE I
Public Streets

[Adopted 10-20-08 as Ord. No. 2, approved 10-21-08]

§ 166-1. Declaration of public streets. [Amended 4-6-76 by Ord. No. 379, approved 4-6-76]

All streets within the limits of the limits of the Borough of Mahanoy City opened or laid out, or drawn or marked on the map

or plan of said borough, constructed by Frank Carter in July 1859, are again declared to be public streets, and all earth, stone, gravel or other valuable material therein is hereby declared to be the property of the borough.

§ 166-2. Enumeration of certain public streets. [Added 4-6-76 by Ord. No. 379, approved 4-6-76]

The following enumerated laid out streets on said map or plan of the borough are hereby declared opened for public use, are to be maintained with a macadam surface and are to be henceforth included in the street surfacing programs for the general welfare of the public:

East South Street, from Fifth Street to Sixth Street and from Eighth Street to the eastern boundary of the borough line

Twelfth Street, from Mahanoy Street to South Street

Thirteenth Street, from Mahanoy Street to South Street

Harrison Street, from Maple Street to Spruce Street

Harrison Street, from Spruce Street to South Street

Harrison Street, from Pine Street to Market Street
[Amended 5-4-76 by Ord. No. 379(A), approved 5-12-76]

West Maple Street, undeveloped from D Street for two hundred sixty (260) feet westwardly

East Maple Street, from Main Street to Church Street

Oak Street, from Birch Street to northern end of borough line

Laurel Street, from West Birch Street to Locust Street

§ 166-3. Existing rights. [Added 4-6-76 by Ord. No. 379, approved 4-6-76]

Nothing herein shall abridge or annul any rights or privileges heretofore granted or hereafter granted by any ordinance

providing for vacating streets or opening or closing of any excavations in said public streets of the borough.

§ 166-4. Violations and penalties.¹

If any person shall take, remove or carry away any stone, sand, clay, gravel or earth from any street or alley within the borough, or shall make, erect or construct any embankment, mound, heap or causeway of earth, gravel, sand, clay, ashes or stones or other material within any street or alley of the borough, or shall dig any pit, hole or cavity therein, or cause the same to be done, every person so offending shall, upon judgment against him or her for such offense, be punishable as provided in § 166-20; provided always that this section shall not prevent the Street Commissioner or Supervisor from grading, leveling, mending or improving the streets and alleys under the direction of the Council and taking and removing sand, clay, gravel and earth for the purpose aforesaid.

ARTICLE II

Sidewalk Construction and Repair

[Adopted 10-3-61 as Ord. No. 309, approved 10-3-61]

§ 166-5. Notice to construct sidewalk.

Every owner of property in the Borough of Mahanoy City shall, on twenty (20) days' notice from the Mayor, construct or reconstruct a sidewalk where none now exists, which shall conform to all applicable requirements of this Article, in front or alongside of such property.

§ 166-6. Notice to repair sidewalk.

Every owner of property in the Borough of Mahanoy City shall, on five (5) days' notice from the Mayor, repair the sidewalk, in the manner stipulated in such notice, in front or alongside of such property.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 166-7. Adherence to specifications.

All sidewalks shall be constructed, reconstructed and repaired according to specifications determined by the Borough Engineer.

§ 166-8. Sidewalks over coal cellars.

In all cases where sidewalks are constructed, reconstructed or repaired over coal cellars or other excavations under such sidewalks, such sidewalks shall be safely supported by beams, girders or arches.

§ 166-9. Adherence to line and grade.

All sidewalks shall be constructed, reconstructed and repaired and the grading therefor done upon the line and grade obtained by the property owner from the Borough Engineer and not otherwise. Upon notice as provided in § 166-5 or 166-6 of this Article, as the case may be, such work of construction, reconstruction or repair shall be done by the owner or owners of such property.

§ 166-10. Duties of Borough Engineer.

It shall be the duty and responsibility of the Borough Engineer to determine, in the case of any individual property, whether or not the sidewalk shall be reconstructed or repaired. The Engineer may at any time, during the course of work of constructing, reconstructing or repairing any sidewalk, visit the site of such work to ascertain whether such work is being done according to requirements; and he shall visit any such site for such purpose whenever requested by the property owner. Within two (2) days after the completion of the work of construction, reconstruction or repair of any sidewalk, it shall be the duty of the owner of the property where such work was done to notify the Borough Engineer of that fact so that he may inspect such sidewalk to determine whether the grade thereof has been observed and followed.

§ 166-11. Application for line and grade; notice of completion.

Any property owner may construct, reconstruct or repair a sidewalk in front of or along his property, provided that such owner shall first make application to the Borough Engineer and shall conform to the requirements of this Article as to line and grade, and that he shall also notify the Borough Engineer, as required by § 166-10, within two (2) days after completion of the work.

§ 166-12. Application fee.

For every application made to the Borough Engineer under § 166-11, a fee of three dollars (\$3.) shall be paid to the Borough of Mahanoy City to meet the expenses incident to the inspection herein required.

§ 166-13. Appointment of Engineer; compensation.

Borough Council shall appoint an Engineer and shall determine and fix his compensation. Said Borough Engineer shall be fully qualified and competent for the purpose herein provided.

§ 166-14. Violations and penalties.²

Any person who shall violate a provision of this Article or fail to comply therewith or with any of the requirements thereof shall, upon conviction thereof, be punishable as provided in § 166-20.

§ 166-15. Additional remedies.

The imposition of the penalties herein prescribed shall not preclude the Borough Solicitor from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct, business or use in or about any premises.

ARTICLE III

Building Materials in Streets

[Adopted 10-20-08 as Ord. No. 8, approved 10-21-08]

§ 166-16. Permit required; fees.

Any person or persons, company or corporation intending to rebuild or erect any house, wall or building within the borough and desiring to occupy part of the street by placing a line box or materials for building thereon shall apply to the Mayor, or in his absence to the Secretary of Council, who shall view the place, and if he thinks it necessary to have a line box or to lay building materials in the street, he shall allot such part of the street as he may deem necessary and proper to accommodate the applicants and shall give him or them a written permit describing the space to be thus used, he or they paying for such permit the sum of one dollar and fifty cents (\$1.50) for three (3) months and, one (1) month thereafter, one dollar (\$1.) additional; and nothing herein contained shall be so construed as to allow the depositing of building materials in any gutter.

§ 166-17. Violations and penalties.³

Any person or persons who shall violate any provisions of this Article by placing any lime box or building materials in any street without first obtaining a permit as aforesaid shall, upon conviction thereof, be punishable as provided in § 166-20.

ARTICLE IV

Spitting on Streets and in Public Places

[Adopted 5-5-08 as Ord. No. 78, approved 5-6-08]

§ 166-18. Spitting prohibited in certain places.

Spitting upon the sidewalks, street crossings, passageways of public buildings, public conveyances, railroad stations, places of

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

public amusements or indoor places resorted to by the public within the Borough of Mahanoy City is hereby declared to be a nuisance prejudicial to the health of the people and is hereby prohibited, and the police and the Health Officer of the borough are hereby directed to enforce this Article.

§ 166-19. Violations and penalties.⁴

Any person who shall violate any provision of this Article shall, upon conviction thereof, be punishable as provided in § 166-20.

ARTICLE V

Penalties

[Added at time of adoption of Code⁵]

§ 166-20. Violations and penalties.

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

⁴ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁵ Editor's Note: See Ch. 1, General Provisions, Art. I.

TAXATION

Chapter 171

TAXATION¹

ARTICLE I Earned Income Tax

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¹ Editor's Note: Section 4 of Ord. No. 82-2, adopted 5-4-1982, approved 5-4-1982, read as follows:

"SECTION 4. That the penalty for the late payment of real estate taxes and any other tax, except as provided by any other provision of this article, levied by the Borough of Mahanoy City is to be at the rate of 10% per annum."

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- § 171-19.2. Powers and duties of Recorder of Deeds.
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- § 171-43. Certificate of payment; seals.

- § 171-44. **Penalty for delinquent tax.**
- § 171-45. **Information confidential.**
- § 171-46. **Recovery by Borough.**
- § 171-47. **Payment over to Borough treasury.**
- § 171-48. **Administrative expenses.**
- § 171-49. **Nonapplicability.**
- § 171-50. **Violations and penalties.**
- § 171-51. **When effective; continuance of tax.**

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Earned Income Tax

[Adopted 3-8-1966 by Ord. No. 341]

§ 171-1. Definitions.

- A. Definitions. The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly requires a different meaning:

ASSOCIATION — A partnership, limited partnership or any other unincorporated group of two or more persons.

BUSINESS — An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit, whether by a person, partnership, association or any other entity.

CORPORATION — A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.

CURRENT YEAR — The calendar year for which the tax is levied.

DOMICILE — The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily “domicile,” for “domicile” is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. “Domicile” is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose but with the present intention of making a permanent home until some event occurs to induce him to adopt some other permanent home. In the case of businesses or associations, the “domicile” is that place considered as the center of business affairs and the place where its functions are discharged.

(Cont'd on page 17105)

EARNED INCOME — Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement, or payments arising under workmen's compensation acts, occupational disease acts and similar legislation, or payments commonly recognized as old-age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, or payments commonly known as public assistance, or unemployment compensation payments made by any governmental agency, or payments to reimburse expenses, or payments made by employers or labor unions for wage and salary supplemental programs, including but not limited to programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

EMPLOYER — A person, partnership, association, corporation, institution, governmental body or unit or agency or any other entity employing one (1) or more persons for a salary, wage, commission or other compensation.

INCOME TAX OFFICER or OFFICER — Person, public employee or private agency designated by the governing body to collect and administer the tax on earned income and net profits.

NET PROFITS — The net income from the operation of a business, profession or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession or other activity, but without deduction of taxes based on income.

NONRESIDENT — A person, partnership, association or other entity domiciled outside the taxing district.

PERSON or INDIVIDUAL — A natural person.

PRECEDING YEAR — The calendar year before the current year.

RESIDENT — A person, partnership, association or other entity domiciled in the taxing district.

SUCCEEDING YEAR — The calendar year following the current year.

TAXPAYER — A person, partnership, association or any other entity required hereunder to file a return of earned income or net profits or to pay a tax thereon.

- B. Word Usage. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

§ 171-2. Imposition of tax.

A tax for general revenue purposes of one-half of one percent ($\frac{1}{2}$ of 1%) is hereby imposed on the following:

- A. On earned income received by individual residents of the Borough of Mahanoy City on and after May 1, 1966.
- B. On earned income received by nonresidents of the Borough of Mahanoy City on and after May 1, 1966, which has been earned or received in the Borough of Mahanoy City.
- C. On net profits earned or received by residents of the Borough of Mahanoy City on and after May 1, 1966.
- D. On net profits earned or received in the Borough of Mahanoy City by nonresidents of the Borough of Mahanoy City on and after May 1, 1966.

§ 171-3. Declaration and payment of tax.

- A. Net profits.

- (1) Every taxpayer who reasonably expects to earn or receive any taxable net profits during the period

beginning May 1, 1966, and ending December 31, 1966, shall, on or before July 1, 1966, make and file with the Income Tax Officer, on a form prescribed or approved by the Income Tax Officer, a declaration of such taxpayer's estimated net profits during the period beginning May 1, 1966, and ending December 31, 1966, and shall state on such form the amount of tax payable under this Article on such estimated net profits and such other relevant information as the Income Tax Officer shall require. The taxpayer making such declaration shall, at the time of the filing thereof, pay to the Income Tax Officer one-half ($\frac{1}{2}$) of the estimated tax shown on the declaration and shall pay the remaining one-half ($\frac{1}{2}$) of the estimated tax to the Income Tax Officer on or before January 15, 1967. If such taxpayer did not anticipate until after July 1, 1966, that he would earn or receive any taxable net profits for the period ending December 31, 1966, he shall make and file the declaration hereinabove required on or before January 15, 1967, and shall pay the full amount of the estimated tax to the Income Tax Officer at the time of the filing of such declaration.

- (2) Every taxpayer who reasonably expects to earn or receive any taxable net profits during any subsequent calendar year (herein sometimes called "current year"), beginning with the year 1967, shall on or before April 15 of each such calendar or current year make and file with the Income Tax Officer, on a form prescribed or approved by the Income Tax Officer, a declaration of such taxpayer's estimated net profits during such calendar or current year, beginning January 1 and ending December 31 of that year, and shall state on such form the amount of tax payable under this Article on such estimated net profits and such other relevant information as the Income Tax Officer shall require. The taxpayer making such declaration shall pay the tax due on the estimated net

profits in four (4) equal quarterly installments as follows: the first installment at the time of filing the declaration, the second installment on or before June 15 of the current year, the third installment on or before September 15 of the current year and the fourth installment on or before January 15 of the succeeding year. Any taxpayer who first anticipates earning or receiving any taxable net profits after April 15 of any current year shall file the declaration hereinabove required on or before June 1 of the current year, September 15 of the current year or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such taxable net profits, and pay to the Income Tax Officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

- (3) Every taxpayer shall make and file with the Income Tax Officer, on or before April 15, 1967, on a form prescribed or approved by the Income Tax Officer, a final return showing the amount of net profits earned or received during the period beginning May 1, 1966, and ending December 31, 1966, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the Income Tax Officer the balance of the tax due or shall make claim for refund or credit in the case of an overpayment of the tax.
- (4) On or before April 15 of each succeeding year beginning April 15, 1968, every taxpayer shall make and file with the Income Tax Officer, on a form prescribed or approved by the Income Tax Officer, a final return showing the amount of net profits earned or received during the period beginning January 1 and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the Income Tax Officer the

balance of tax due or shall make claim for refund or credit in the case of an overpayment of the tax.

- (5) Any taxpayer may, in lieu of paying the forth quarterly installment of his estimated tax, elect to make and file the final return hereinabove required with the Income Tax Officer on or before January 31 of the succeeding year.
- (6) In any case where a taxpayer conducts his business on a fiscal year other than the calendar year, he shall be required to file a final return as hereinabove required within one hundred five (105) days following the end of such fiscal year. The percentage of the total net profits of any calendar or fiscal year which shall be subject to tax under this Article for the period beginning May 1, 1966, and ending December 31, 1966, shall be the same percentage as the number of days in such taxable period bears to the number of days in such calendar or fiscal year.
- (7) The Income Tax Officer shall provide by regulation for the making and filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
- (8) Every taxpayer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after such discontinuance, file a final return as hereinabove required and pay the tax due.

B. Earned income.

- (1) Annual earned income tax return.
 - (a) On or before April 15, 1967, every taxpayer shall file with the Income Tax Officer, on a form prescribed or approved by the Income Tax Officer, a final return showing the amount of earned income received during the period beginning May

1, 1966, and ending December 31, 1966, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax withheld pursuant to the provisions relating to collection at the source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of tax due or shall make claim for refund or credit in the case of overpayment of the tax.

- (b) On or before April 15 of each succeeding year, beginning April 15, 1968, every taxpayer shall file with the Income Tax Officer, on a form prescribed or approved by the Income Tax Officer, a final return showing the amount of earned income received during the period beginning January 1 of the previous or current year and ending December 31 of the previous or current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon withheld pursuant to the provisions relating to collection at the source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of tax due or shall make claim for refund or credit in the case of overpayment.

(2) Earned income not subject to withholding.

- (a) Every taxpayer who is employed for a salary, wage, commission or other compensation and who receives any earned income not subject to the provisions relating to collection at the source, during the period beginning May 1, 1966, and ending December 31, 1966, shall make and file with the Income Tax Officer, on a form prescribed or approved by the Income Tax Officer, the following returns: on or before September 30, 1966, a return setting forth the aggregate amount of the taxpayer's earned income not subject to withholding which was received during the period beginning May 1, 1966, and ending August 31,

1966; and on or before January 31, 1967, a return setting forth the aggregate amount of the taxpayer's taxable earned income not subject to withholding which was received during the period beginning September 1, 1966, and ending December 31, 1966. The taxpayer shall furnish in such returns such other relevant information as the Income Tax Officer may require. Every taxpayer making such return shall, at the time of the filing thereof, pay to the Income Tax Officer the amount of tax shown as due thereon.

- (b) Every taxpayer who is employed for a salary, wage, commission or other compensation and who receives any earned income not subject to the provisions relating to collection at the source shall, beginning with the calendar year 1967, make and file with the Income Tax Officer, on a form prescribed or approved by the Income Tax Officer, quarterly returns, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, setting forth the aggregate amount of the taxpayer's taxable earned income not subject to withholding which was received during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively. The taxpayer shall furnish in such returns such other relevant information as the Income Tax Officer may require. Each taxpayer making such return shall, at the time of the filing thereof, pay to the Income Tax Officer the amount of tax shown as due thereon.

§ 171-4. Collection at source.

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the

Borough of Mahanoy City who employs one (1) or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, within fifteen (15) days after this Article becomes effective, register with the Income Tax Officer his name and address and furnish such other relevant information as the Income Tax Officer may require. Any such employer who becomes such an employer following the effective date of this Article shall make such registration with the Income Tax Officer within fifteen (15) days after becoming such an employer.

B. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough of Mahanoy City who, during the period beginning May 1, 1966, and ending December 31, 1966, employs one (1) or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall deduct at the time of payment thereof the tax imposed by this Article on the earned income due his employee or employees, and shall, on or before September 30, 1966, file a return and pay to the Income Tax Officer the amount of taxes deducted during the period beginning May 1, 1966, and ending August 31, 1966, and shall, on or before January 31, 1967, file a return and pay to the Income Tax Officer the amount of taxes deducted during the period beginning September 1, 1966, and ending December 31, 1966.

C. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough of Mahanoy City who, beginning with the calendar year 1967, employs one (1) or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall deduct at the time of payment thereof the tax imposed by this Article on the earned income due his employee or employees, and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a return and pay to the Income Tax Officer the amount of taxes deducted during the preceding

- three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively.
- D. The returns required to be filed by employers under the preceding Subsections B and C shall, unless otherwise agreed between the Income Tax Officer and the employer, show the name and social security number of each such employee, the earned income of such employee during the period covered by the return, the tax deducted therefrom, the total earned income of all such employees during the period covered by the return and the total tax deducted therefrom and paid with the return, and shall contain a statement that the tax was imposed on the employee by the Borough of Mahanoy City.
- E. Any employer who for two (2) preceding quarterly periods has failed to deduct the proper tax or has failed to pay over the proper amount of the tax to the Income Tax Officer may be required by the Income Tax Officer to file his return and pay the tax monthly. In such cases payment of the tax shall be made to the Income Tax Officer on or before the last day of the month succeeding the month for which the tax was withheld.
- F. On or before February 28, 1967, every employer shall file with the Income Tax Officer a return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Income Tax Officer for the period beginning May 1, 1966, and ending December 31, 1966; and on or before February 28, 1968, and on or before February 28 of each succeeding year, every employer shall file with the Income Tax Officer an annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Income Tax Officer for the period beginning January 1 and ending December 31 of the current or preceding year.
- G. On or before February 28, 1967, every employer shall file with the Income Tax Officer a withholding statement for

each employee employed during all or any part of the period beginning May 1, 1966, and ending December 31, 1966, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted and the amount of tax paid to the Income Tax Officer, and containing a statement that the tax was imposed on the employee by the Borough of Mahanoy City. Every employer shall furnish two (2) copies of the withholding statement to the employee for whom it is filed.

- H. On or before February 28, 1968, and on or before February 28 of each succeeding year, every employer shall file with the Income Tax Officer a withholding statement for each employee employed during all or any part of the period beginning January 1 and ending December 31 of the current or preceding year, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted and the amount of tax paid to the Income Tax Officer, and containing a statement that the tax was imposed on the employee by the Borough of Mahanoy City. Every employer shall furnish two (2) copies of the withholding statement to the employee for whom it is filed.
- I. Every employer who discontinues business prior to December 31 of any year shall, within thirty (30) days after discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
- J. Except as otherwise provided in Section 9 of the Local Tax Enabling Act (No. 511 of 1965),¹ every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for the payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

¹ Editor's Note: See 53 P.S. § 8906.

- K. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of this Article relating to the filing of declarations and returns.

§ 171-5. Powers and duties of Income Tax Officer.

- A. The Income Tax Officer is hereby designated the receiver and collector of all taxes imposed by this Article. He shall be bonded in an amount to be determined by Borough Council of the Borough of Mahanoy City, and his bond shall conform in all respects to the requirements of Section 13, Subdivision V of the Local Tax Enabling Act (No. 511 of 1965).²
- B. It shall be the duty of the Income Tax Officer to collect and receive the taxes, fines and penalties imposed by this Article and to account therefor to the Borough of Mahanoy City. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.
- C. The Income Tax Officer shall have charge of the administration and enforcement of the provisions of this Article and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Article, including provisions for the reexamination and correction of declarations and returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred, and to make refunds in cases of overpayment for any period of time not to exceed six (6) years subsequent to the date of payment of the sum involved. The Income Tax Officer shall prescribe forms necessary for the administration of this Article. No rule or regulation prescribed, adopted or promulgated by the Income Tax Officer shall be enforceable, however, until it has been approved by resolution adopted by Mahanoy City Borough

² Editor's Note: See 53 P.S. § 8913, Subdivision V.

Council. A copy of the rules and regulations currently in force shall be available for public inspection.

- D. The Income Tax Officer shall refund, on petition of and proof by the taxpayer, any earned income tax paid on the taxpayer's ordinary and necessary business expenses to the extent that such expenses are not paid by the taxpayer's employer.
- E. The Income Tax Officer and such agents as are designated by the Income Tax Officer are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the Income Tax Officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the Income Tax Officer reasonably believes to be an employer or taxpayer is hereby directed and required to furnish to the Income Tax Officer or to any agent designated by the Income Tax Officer the means, facilities and opportunity for such examinations and investigations as are hereby authorized.
- F. Any information gained by the Income Tax Officer or his agents or employees, or by any employee, agent or official of the Borough of Mahanoy City, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Article, shall be confidential, except for official purposes in connection with the administration and enforcement of this Article or as otherwise required by a proper judicial order or by law.
- G. The Income Tax Officer is authorized to establish filing, reporting and payment dates other than those herein provided for taxpayers whose fiscal years do not coincide with the calendar year.

§ 171-6. Suit for collection of tax.

- A. The Income Tax Officer is authorized to file suit in the name of the Borough of Mahanoy City for the recovery of taxes due and unpaid under this Article.

B. Any suit brought to recover taxes imposed by this Article shall be commenced within three (3) years after such taxes become due or within three (3) years after the declaration or return has been filed, whichever date shall be later; provided, however, that this limitation shall not apply and shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

- (1) Where no declaration or return was filed although a declaration or return was required to be filed. In this case there shall be no limitation of time for filing suit.
 - (2) Where an examination of the declaration or return filed or of other evidence in the possession of the Income Tax Officer relating to such declaration or return reveals a fraudulent evasion of the tax. In this case there shall be no limitation of time for filing suit.
 - (3) Where there has been an understatement of tax liability of twenty-five percent (25%) or more, suit shall be commenced within six (6) years.
 - (4) Where there has been a deduction or withholding of taxes under the provisions of this Article but a failure to pay to the Income Tax Officer the amounts so deducted or withheld, or where there has been a willful failure or omission to deduct or withhold taxes as required by this Article, there shall be no limitation of time for filing suit.
- C. The Income Tax Officer is authorized to file suit for recovery of an erroneous refund of taxes, provided that suit is filed within two (2) years after the date of such refund, except that suit may be brought within five (5) years from the date of the refund if such refund or any portion thereof was induced by fraud or misrepresentation of a material fact.

§ 171-7. Interest and penalty. [Amended 5-4-82 by Ord. No. 82-2, approved 5-4-82¹]

If for any reason a tax due and payable under this Article is not paid when due, interest at the rate of ten percent (10%) per annum

¹ Editor's Note: Section 5 of this ordinance provided that it shall become effective 1-1-83.

on the amount of such tax and an additional penalty of one-half of one percent ($\frac{1}{2}$ of 1%) of the amount of such tax for each month or fraction thereof during which such tax remains unpaid shall be added to the tax and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

§ 171-8. Violations and penalties.

- A. Any person who fails, neglects or refuses to make any declaration or return required by this Article; any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees; any person who refuses to permit the Income Tax Officer or any agent designated by him to examine his books, records and papers; and any person who knowingly makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Article, shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred dollars (\$500.) for each offense and costs, and, in default of payment of said fine and costs, be imprisoned in the Schuylkill County Prison for a period not exceeding thirty (30) days.
- B. Any person who divulges any information which is confidential under the provisions of this Article shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred dollars (\$500.) for each offense and costs, and, in default of payment of said fine and costs, be imprisoned in the Schuylkill County Prison for a period not exceeding thirty (30) days.
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Article.

D. The failure of any person to receive or procure forms required for making the declaration or returns required by this Article shall not excuse him from making such declaration or return.

§ 171-9. Authorization.

This Article is enacted under the authority of the Local Tax Enabling Act (Act No. 511, approved December 31, 1965, effective January 1, 1966).¹

ARTICLE II

Realty Transfer Tax

[Adopted 7-7-87 as Ord. No. 87-4, approved 7-7-87²]

§ 171-10. Title.

This Article shall be known as the "Realty Transfer Tax Ordinance of Mahanoy City Borough."

§ 171-11. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within Mahanoy City Borough, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D, Local Real Estate Transfer Tax, 72 P.S. § 8101-D et seq.

§ 171-12. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

¹ Editor's Note: See 53 P.S. § 6901 et seq.

² Editor's Note: This ordinance also repealed former Article II, Realty Transfer Tax, adopted 12-6-66 as Ord. No. 343, approved 12-6-66.

ASSOCIATION — A partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two (2) or more persons other than a private trust or decedent's estate.

BOROUGH — The Borough of Mahanoy City, County of Schuylkill, Commonwealth of Pennsylvania.

CORPORATION — A corporation, joint-stock association, business trust or banking institution which is organized under the laws of this commonwealth, the United States or any other state, territory, foreign country or dependency.

DOCUMENT — Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments or like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding thirty (30) years, or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under the applicable section of this ordinance.

FAMILY FARM CORPORATION — A corporation of which at least seventy-five percent (75%) of its assets are devoted to the business of agriculture and at least seventy-five percent (75%) of each class of stock of the corporation is continuously owned by members of the same family. The business or agriculture shall not be deemed to include:

- A. Recreational activities, such as but not limited to hunting, fishing, camping, skiing, show competition or racing;
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;
- C. Fur farming;

- D. Stockyard and slaughterhouse operations; or
- E. Manufacturing or processing operations of any kind.

MEMBERS OF THE SAME FAMILY — Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

PERSON — Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

REAL ESTATE:

- A. All lands, tenements or hereditaments within this Mahanoy City Borough, including without limitation buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder's interest in cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

REAL ESTATE COMPANY — A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, ninety percent (90%) or more of the ownership interest in which is held by thirty-five (35) or fewer persons and which:

- A. Derives sixty percent (60%) or more of its annual gross receipts from the ownership or disposition of real estate;
or

- B. Holds real estate, the value of which comprises ninety percent (90%) or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

SCHOOL DISTRICT — The Mahanoy Area School District.

TITLE TO REAL ESTATE:

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple, life estate or perpetual leasehold; or
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of thirty (30) years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TRANSACTION — The making, executing, delivering, accepting or presenting for recording of a document.

VALUE:

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefore, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate, provided that where such documents shall set forth a nominal consider-

ation, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;
- C. In the case of an easement or other interest in real estate the value of which is not determinable under Subsections A and B, the actual monetary worth of such interest; or
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

§ 171-13. Imposition of tax; interest.

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of one percent (1%) of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time

the document is presented for recording or within thirty (30) days of acceptance of such document or within thirty (30) days of becoming an acquired company.

- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
- C. It is the intent of this Article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Mahanoy City Borough under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half ($\frac{1}{2}$) of the rate, and such one-half rate shall become effective without any action on the part of Mahanoy City Borough provided, however, that the governing body and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half ($\frac{1}{2}$) of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
- D. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.

§ 171-14. Exempt parties.

The United States, the commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

§ 171-15. Excluded transactions.

- A. The tax imposed by § 171-13 of this Article shall not be imposed upon:
- (1) A transfer to the commonwealth or to any of its instrumentalities, agencies or political subdivision, by gift dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property fine adjustments, provided that said reconveyance is made within one (1) year from the date of condemnation.
 - (2) A document which the Mahanoy City Borough is prohibited from taxing under the Constitution or statutes of the United States.
 - (3) A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax-delinquent property at sheriff sale or Tax Claim Bureau sale.
 - (4) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
 - (5) A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
 - (6) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided that the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent

and child or the spouse of such child, between brother or sister or the spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one (1) year shall be subject to tax as if the grantor were making such transfer.

- (7) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- (8) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- (9) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- (10) A transfer for no or nominal actual consideration from a trustee to successor trustee.
- (11) A transfer for no or nominal actual consideration between principal and agent or straw party; or from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Article. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this Subsection.
- (12) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a

nonprofit corporation, except where the Department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Article.

- (13) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two (2) years.
- (14) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee or a transfer to a nonprofit industrial development agency or authority.
- (15) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and if the agency or authority has the full ownership interest in the real estate transferred.
- (16) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- (17) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- (18) A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954 [68A Stat. 3, 26 U.S.C. § 501(c)(3)]

and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

- (19) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least seventy-five percent (75%) of each class of the stock thereof.
- (20) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- (21) A transaction wherein the tax due is one dollar (\$1.) or less.
- (22) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

B. In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Article.

§ 171-16. Transfers between corporations or associations and members.

Except as otherwise provided in § 171-15 of this Article, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

§ 171-17. Acquired companies.

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and

of itself or together with prior changes has the effect of transferring, directly or indirectly, ninety percent (90%) or more of the total ownership interest in the company within a period of three (3) years.

- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Article.
- C. Within thirty (30) days after becoming an acquired company, the company shall present a declaration of acquisition with the Recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania realty transfer tax declaration of acquisition may be submitted for this purpose.

§ 171-18. Credits against tax.

- A. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
- B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

- C. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount or tax due, no refund or carryover credit shall be allowed.

§ 171-19. Renewal or extension of lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§ 171-19.1. Proceeds of judicial sales.

The tax herein imposed shall be fully paid, and have priority out of the proceeds or any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, except the commonwealth realty transfer tax, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

§ 171-19.2. Powers and duties of Recorder of Deeds.

- A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any

amount payable to Mahanoy City Borough based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from Mahanoy City Borough.

- B. In order to ascertain the amount of taxes due when the property is located in more than one (1) political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
- C. On or before the tenth of each month, the Recorder shall pay over to Mahanoy City Borough all local realty transfer taxes collected, less two percent (2%) for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two-percent commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the commonwealth and local amount and a rerecording or recording fee has been tendered.

§ 171-19.3. Statement of value.

Every document lodged with or presented to the Recorder of Deeds for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Article. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person

connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Article.

§ 171-19.4. Civil penalties.

- A. If any part of any underpayment of tax imposed by this Article is due to fraud, there shall be added to the tax an amount equal to fifty percent (50%) of the underpayment.
- B. In the case of failure to record a declaration required under this Article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5%) of the amount of such tax if the failure is for not more than one (1) month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate.

§ 171-19.5. Lien.

The tax imposed by this Article shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Mahanoy City Borough, which lands, tenements, hereditaments or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Article, said lien to begin at the time when the tax under this Article is due and payable, and continue until discharge by payment, or in accordance with the law, and the Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Schuylkill County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. § 7101 et seq., its supplements and amendments.

§ 171-19.6. Recovery of taxes.

All taxes imposed by this Article, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

§ 171-19.7. Enforcement; regulations.

The Recorder of Deeds of Schuylkill County is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. § 8101-C et seq. are incorporated into and made a part of this article.

§ 171-19.8. Severability.

Should any section, subsection, sentence, clause or phrase of this article be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this article in its entirety or of any part thereof other than that declared to be invalid.

§ 171-19.9. Effective date.

This ordinance shall be effective on July 7, 1987.

ARTICLE III**Local Services Tax**

**[Adopted 2-8-2005 by Ord. No. 2005-5²;
amended in its entirety 12-27-2007 by
Ord. No. 2007-2, approved 12-27-2007³]**

² Editor's Note: This ordinance also repealed former Art. III, Occupational Privilege Tax, adopted 12-29-1976 by Ord. No. 391, as amended.

³ Editor's Note: Nothing shall be construed to repeal the imposition and collection of an occupation privilege tax, plus applicable penalties and interest, for calendar year 2006 and all prior calendar years, or of an emergency and municipal services tax for calendar year 2007, as the same existed prior to this amendment. The tax imposed by

§ 171-20. Short title.

This article shall be known and may be cited as the "Borough of Mahanoy City Local Services Tax Ordinance."

§ 171-21. Definitions.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

BOROUGH OF MAHANAOY CITY or BOROUGH — The area within the corporate limits of the Borough of Mahanoy City.

COLLECTOR — The person, public employee or private agency designated by the Borough Council for the Borough of Mahanoy City to collect and administer the tax herein imposed.

DCED — The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

EARNED INCOME — Compensation as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

EMPLOYER — An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

HE, HIS or HIM — Indicates the singular and plural number, as well as male, female and neuter genders.

this article shall be effective on 1-1-2008 and all calendar years thereafter unless repealed or modified by ordinance of the Borough Council.

INDIVIDUAL — Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Mahanoy City.

NET PROFITS — The net income from the operation of a business, profession, or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

OCCUPATION — Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough of Mahanoy City for which compensation is charged or received, whether by means of salary, wages, commission or fees for services rendered.

TAX — The local services tax at the rate fixed in § 171-22 of this article.

TAX YEAR — The period from January 1 until December 31 in any year; a calendar year.

§ 171-22. Levy of tax.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008, upon the privilege of engaging in an occupation with a primary place of employment within the Borough of Mahanoy City during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro rata basis, in accordance with the provision of this article. The tax may be used solely for the following purposes as the same may be allocated by the Borough Council from time to time: emergency services, which shall include emergency medical services, police services and/or fire services; road construction and/or maintenance; reduction of property taxes; or property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F

(relating to homestead property exclusion). The Borough shall use no less than 25% of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough of Mahanoy City. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

§ 171-23. Exemption and refunds.

A. Exemption. Any person whose total earned income and net profits from all sources within the Borough is less than \$12,000 for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

- (1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one-hundred-percent disability.
- (2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to claim exemption.

- (1) A person seeking to claim an exemption from the local services tax shall annually file an exemption certificate with the Borough and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the Borough utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the Borough or except as required by Subsection B(2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring.
- (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the Borough in an amount equal to or in excess of \$12,000 in that calendar year, an employer

shall withhold the local services tax from the person under Subsection B(3).

- (3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under Subsection B(2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection B(2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Borough may pursue collection under this act.
- (4) Except as provided in Subsection B(2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from a local services tax.

C. Refunds. The Borough Treasurer, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the General Municipal Law relating to refunds of overpayment and interest on overpayments.⁴ Refunds made within 75 days of a refund request or 75 days after the last day the

⁴ Note: With respect to refunds, see 53 Pa.C.S. § 8425; with respect to interest, see 53 Pa.C.S. § 8426.

employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Borough Treasurer or the Collector shall determine eligibility for refunds to exempt persons and provide refunds.

§ 171-24. Duty of employers to collect.

- A. Each employer within the Borough of Mahanoy City, as well as those employers situated outside the Borough of Mahanoy City but who engage in business within the Borough of Mahanoy City, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the Borough of Mahanoy City and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax from each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed with the Borough of Mahanoy City.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest $\frac{1}{100}$ of a dollar. Collection of the tax shall be made on a payroll-period basis for each payroll period in which the person is engaging in an occupation, except as provided in Subsection D of this section. For purposes of this subsection, "combined rate" shall mean the

aggregate annual rate of the tax levied by the school district and the Borough.

- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED, or the Borough.
- E. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The Borough shall provide a taxpayer a receipt of payment upon request by the taxpayer. The tax shall be \$52 per year collected on a pro-rata basis as set forth in this article.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Borough if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Subsection B of § 171-23 of this article and this section and remits the amount so withheld in accordance with this article.

G. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

§ 171-25. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§ 171-26. Dates for determining tax liability and payment.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the 30th day following the end of each calendar quarter of each such tax year.

§ 171-27. Self-employed individuals.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the Borough of Mahanoy City shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the 30th day following the end of each quarter.

§ 171-28. Individuals engaged in more than one occupation or employed in more than one political subdivision.

- A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:
- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
 - (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision; and
 - (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.
- B. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

§ 171-29. Nonresidents subject to tax.

All employees and self-employed individuals residing or having their places of business outside of the Borough of Mahanoy City but who performed services of any type or kind or engage in any occupation or profession within the Borough of Mahanoy City do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the Borough of Mahanoy City. Further, any individual engaged in an occupation within the

Borough of Mahanoy City and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§ 171-30. Administration of tax.

- A. The Collector shall be appointed by resolution of the Borough Council. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to Borough Council approval, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and collection of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Schuylkill County as in other cases provided.
- C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

§ 171-30.1. Suits for collection.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection as well as filing.
- C. Actions for collections of tax or actions to seek penalties for violations may be enforced through any legal means available to the Borough including, but not limited to, summary citation, civil suit, action in equity, or any other means available.

§ 171-30.2. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any returns required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

§ 171-30.3. Interpretation.

- A. Nothing contained in this article shall be construed to empower the Borough of Mahanoy City to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

ARTICLE IV**Per Capita Tax****[Adopted 2-7-1967 by Ord. No, 345, approved 2-7-1967]****§ 171-31. Definitions.**

- A. Definitions. Unless otherwise expressly stated, the following terms shall have, for the purpose of this article, the meanings herein indicated:

(Cont'd on page 17129)

PERSON — Any natural person.

RESIDENT — Any person residing or living within the Borough of Mahanoy City.

TAXPAYER — Includes any person required hereunder to pay a per capital tax.

B. Word usage. The singular shall include the plural, and the masculine the feminine.

§ 171-32. Imposition of tax. [Amended 5-5-81 by Ord. No. 81-3]

There is hereby imposed, for general borough purposes, for the fiscal year 1967 and annually thereafter, a per capita tax of five dollars (\$5.) upon every resident of the Borough of Mahanoy City who shall have attained the age of eighteen (18) years on or before the first day of July 1967.

§ 171-33. Notice of tax due. [Amended 5-5-81 by Ord. No. 81-3]

On or before the 30th day of July, the Borough Tax Collector shall send to every resident of the borough upon whom tax is imposed under the terms of this Article notice of the per capita tax due by such resident for that year. Such notice shall be on a form approved by the Borough Solicitor and procured at the expense of the borough; provided that the failure or omission of the Borough Tax Collector to send, or of any taxpayer to receive, such notice shall not relieve such person from the payment of such tax, and provided further that any person who shall become a resident of the borough after July 1 shall not be liable for the per capita tax for that year; any resident who shall cease to be a resident at any time after July 1 shall be liable for the full amount of the per capita tax for such year.

§ 171-34. Due date. [Amended 5-5-81 by Ord. No. 81-3]

On or before the 30th day of November, every taxpayer shall pay to the Borough Tax Collector, in full, the tax imposed upon

him under this Article. The Borough Tax Collector shall furnish a receipt to every person paying any such tax.

§ 171-35. Penalty for delinquent tax. [Amended 5-4-82 by Ord. No. 82-2, approved 5-4-82¹]

If any tax imposed in pursuance of this Article shall not be paid when due, a penalty of ten percent (10%) of the amount of the tax due and unpaid shall be added thereto.

§ 171-36. Recovery by borough.

All taxes levied by this Article, together with all penalties, shall be recoverable as other debts of like amount are recovered.

§ 171-37. Violations and penalties. [Amended 5-5-81 by Ord. No. 81-3]

Any person violating or failing to carry out any of the provisions of this Article, or failing, neglecting or refusing to pay any tax or penalty imposed under this Article, or attempting to do anything whatever to avoid the payment of the whole or part of the tax imposed under this Article, shall, upon conviction thereof, be punishable for each offense by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days. This penalty shall be in addition to any other penalty imposed by this Article.

§ 171-38. Authorization.

This Article is being enacted under the authority of the Act of Assembly No. 511, approved December 31, 1965, effective January 1, 1966, entitled the "Local Tax Enabling Act."²

¹ Editor's Note: Section 5 of this ordinance provided that it shall become effective 1-1-83.

² Editor's Note: See 53 P.S. § 6901 et seq.

§ 171-39. Continuance of tax from year to year. [Amended 5-5-81 by Ord. No. 81-3]

The tax imposed by this Article shall continue in effect on a calendar- or fiscal-year basis, as the case may be, without annual reenactment unless the rate of the tax is subsequently changed.

ARTICLE V

Amusement Machine Tax

[Adopted 2-7-67 as Ord. No. 346, approved 2-7-67]

§ 171-40. Definitions.

- A. Definitions. Unless otherwise herein expressly stated, the following terms shall have, for the purpose of this Article, the meanings hereby respectively indicated:

JUKEBOX — Any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, disk or key into any slot, crevice or other opening, operates or may be operated for the emission of song, music or similar amusement.

MECHANICAL AMUSEMENT DEVICE — Any device, other than a jukebox or video game, which, upon the insertion of a coin, slug, token, plate or disk, may be operated for use as a game, entertainment or amusement, whether or not registering a score and whether or not a prize is offered, provided that such term shall not include any gambling device or any mechanism that has been judicially determined to be a gambling device. [Amended 1-4-83 by Ord. No. 83-1, approved 1-4-83]

PERSON — Any natural person, association, copartnership, firm or corporation.

VIDEO GAME — Any device for amusement purposes which is operated by a coin, slug, token, plate or disk and which contains a video screen and which is operated by an internal computer. [Added 1-4-83 by Ord. No. 83-1, approved 1-4-83]

B. Word usage. In this Article the singular shall include the plural, and the masculine shall include the feminine and the neuter.

§ 171-41. Imposition of tax; by whom payable; rate. [Amended 5-5-81 by Ord. No. 81-3; 1-4-83 by Ord. No. 83-1, approved 1-4-83]

There is hereby imposed a tax, for general borough purposes, for the fiscal year 1983 and annually thereafter, under the authority of the Act of Assembly No. 511, approved December 31, 1965, effective January 1, 1966, entitled the "Local Tax Enabling Act," upon the privilege of using for profit, within the Borough of Mahanoy City, any jukebox, video game or mechanical amusement device, as herein defined. Such tax shall be payable by the persons owning and/or operating the establishment in which such device is installed for use. Such tax shall be payable at the following rate for each fiscal year or portion thereof: on each video game, twenty-five dollars (\$25.); on each mechanical amusement device, ten dollars (\$10.); on each jukebox, five dollars (\$5.).

§ 171-42. Due date; substitution of devices; no refunds. [Amended 5-5-81 by Ord. No. 81-3]

The tax imposed under this Article shall be payable to the Borough Secretary on or before the first day of April. No deductions or refund of any tax payable under this Article shall be granted in the case of any tax payable for less than a full calendar year or in case of any device destroyed, stolen, sold or otherwise disposed of or transferred after the payment of such tax; provided, however, in the case of the substitution of any device by another device in the same class, the use of which is taxable under this Article, no additional tax shall be paid, provided that the total number of devices of the same class in use upon the premises remains no greater than that upon which such tax was paid.

¹ Editor's Note: For statutory authority, see 53 PS § 6901 et seq.

§ 171-43. Certificate of payment; seals.

A. The Borough Secretary shall procure, at the expense of the borough, a sufficient number of certificates, upon each of which the following information shall be printed or inserted in ink or by typewriter:

- (1) The name of the borough.
- (2) The number of the certificate.
- (3) The name and address of the person paying the tax.
- (4) The year for which the tax shall have been paid.

(Cont'd on page 17133)

- (5) The date of which such tax shall have been paid.
 - (6) The type of device for which the tax shall have been paid.
 - (7) The amount of tax paid.
- B. Whenever any tax shall have been paid under this Article, the Borough Secretary shall prepare in duplicate a certificate as herein prescribed. The original of such certificate, to which the borough seal shall be affixed, shall be given to the person paying such tax, and the duplicate shall be kept on file by the Borough Secretary. The Borough Secretary shall also procure and give to each person paying such tax a seal to be affixed to each device for the use of which such tax shall have been paid. Such seal shall indicate the year for which such tax shall have been paid, the type of device and the certificate number.
- C. In case of the loss, defacement or destruction of any original certificate or seal, the person to whom such certificate or seal was issued shall apply to the Borough Secretary, who may issue a new certificate or seal in replacement thereof upon payment of a fee of fifty cents (\$0.50) and who shall amend the duplicate of the certificate first issued in case a new certificate has been issued.
- D. In case of the removal to another location in the borough of any establishment containing any device for the use of which a tax shall have been paid under this Article, or in case of a change in the identity of the person operating or owning any such establishment, the person operating such establishment shall report such facts within five (5) days of such change in location or personnel, and the Secretary shall immediately amend the certificate and duplicate certificate.
- E. Before the removal of any device from any establishment, the person operating such establishment shall remove the seal issued under this Article from such device. Such seal may be affixed to any other device of the same class used in such establishment during the current year.

§ 171-44. Penalty for delinquent tax.

If any tax levied in pursuance of this Article shall not be paid when due, a penalty of ten percent (10%) of the amount of tax due and unpaid shall be added thereto.

§ 171-45. Information confidential.

Any information gained by the Borough Secretary or any other official or agent of the borough as a result of any returns, investigation or verifications required or authorized by this Article shall be confidential, except for official purposes and except in accordance with proper judicial order or as otherwise provided by law. Any disclosure of any information contrary to the provisions of this section shall constitute a violation of this Article.

§ 171-46. Recovery by borough.

All taxes imposed by this Article, together with all penalties, interest and costs, shall be recoverable by the borough as debts of like amount are by law recoverable.

§ 171-47. Payment over to borough treasury.

All taxes, interest and penalties collected or recovered by the Borough Secretary or any other borough officer or person for or in behalf of the borough shall be paid into the borough treasury as general revenue to be used for general revenue purposes.

§ 171-48. Administrative expenses.

All expenses incurred in the administration of this Article shall be paid by the borough.

§ 171-49. Nonapplicability.

This Article shall not apply to any person or property as to whom or which it is beyond the legal power of the Borough Council to impose the tax or duties herein provided for.

§ 171-50. Violations and penalties.¹⁸

Any person violating or failing to carry out any of the provisions or requirements of this Article, or neglecting, failing or refusing to furnish complete and correct returns or to pay over any tax levied by this Article at the time required, or knowingly making any incomplete, false or fraudulent return, or doing or attempting to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this Article, shall, upon conviction thereof, be punishable for each offense by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days. This penalty shall be in addition to any other penalty imposed by this Article.

§ 171-51. When effective; continuance of tax.¹⁹

This Article shall become effective immediately upon its enactment, and the tax levied hereunder shall continue in effect on a calendar or fiscal year basis, as the case may be, without annual reenactment unless the rate of the tax is subsequently changed.

¹⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹⁹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 173-1

TOBACCO

§ 173-1

Chapter 173

TOBACCO

**ARTICLE I
Use By Minors**

- § 173-1. **Prohibition.**
- § 173-2. **Violations and penalties.**
- § 173-3. **Definitions.**
- § 173-4. **Applicability.**

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 62.
Curfew — See Ch. 83.

**ARTICLE I
Use By Minors
[Adopted 4-14-2009 by Ord. No. 2009-3,
approved 4-14-2009]**

§ 173-1. Prohibition.

It shall be unlawful for any minor under the age of 18 years to use or possess tobacco, in any form, within the Borough of Mahanoy City, or any Borough-owned property, on any public street, highway, traffic way, alley or sidewalk.

§ 173-2. Violations and penalties.

A violation of this article shall be a summary offense, and any person who violates this article shall, upon conviction, be sentenced to pay a fine of up to \$50.

§ 173-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ALLEY — A street or highway intended to provide access to the rear or side of lots of buildings and not intended for the purpose of through vehicular traffic.

HIGHWAY — The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purpose of vehicular travel. The term includes a roadway open to the use of the public for vehicular travel on grounds of a public or private school or public or historical park.

ROADWAY — That portion of the highway improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm or shoulder.

SIDEWALK — That portion of a street between curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

TOBACCO — A lighted or unlighted cigarette, cigar, pipe, or other lighted smoking product and smokeless tobacco in any form.

TRAFFIC WAY — The entire width between property lines or other boundary lines of every way or place of which any part is open to the public for purposes of vehicular travel as a matter of right or custom.

§ 173-4. Applicability.

This article shall not apply to a minor smoking or using tobacco in a nonpublic place which constitutes the residence of the minor and his or her parents or guardian.

Chapter 174

TRANSIENT MERCHANTS

- § 174-1. License required.
- § 174-2. License fee; renewal.
- § 174-3. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 2-19-24 as Ord. No. 149. Sections 174-2 and 174-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting — See Ch. 143.

§ 174-1. License required.

Hereafter every person, whether principal or agent, not engaged in a permanent business in the Borough of Mahanoy City but entering into, beginning or desiring to begin a transient retail or wholesale business in said Borough of Mahanoy City for the sale of any goods, wares or merchandise whatsoever, whether the same shall be represented or held forth to be bankrupt, assigned or about to quit business, or of goods damaged by fire, water or otherwise, or by any attractive or conspicuous advertisement whatsoever, shall first take out a license authorizing such person so to do, which said license shall be granted and issued by the Mayor of the Borough of Mahanoy City upon the terms and conditions provided for in § 174-2.

§ 174-2. License fee; renewal.¹

The license fee for transient retail or wholesale merchants shall be twenty-five dollars (\$25.) per month or the fractional part

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

thereof, and the license shall be granted and issued by the Mayor aforesaid to the person or persons applying for the same and upon the production by him or them of a receipt showing that he has paid the said sum of twenty-five dollars (\$25.) into the borough treasury. This license shall be valid for the period of one (1) month from the date of its issue and for the place or stand designated or named in said license, said license to be renewed monthly during the continuance of said sales.

§ 174-3. Violations and penalties.²

Upon the failure of said person to secure a license in the manner aforesaid, he or she shall, upon conviction thereof, be punishable by a fine of not more than three hundred dollars (\$300.) and costs of prosecution or, upon default in payment of the fine and costs, by imprisonment in the county jail for not more than thirty (30) days.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

VEHICLES AND TRAFFIC

Chapter 179

VEHICLES AND TRAFFIC

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- § 179-18. Vehicle weight limits established.
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- § 179-22. Vehicles to be parked in marked spaces.
- § 179-23. Angle parking.
- § 179-24. Parking prohibited at all times.
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- § 179-26. Parking time limited.
- § 179-27. Restricted or special purpose parking zones.
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- § 179-27.2. Additional parking regulations.
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- § 179-28. Definitions
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- § 179-30. Enforcement officials; removal of vehicles.
- §§ 179-31 through 179-33. (Reserved)
- § 179-34. Violations and penalties.
- §§ 179-35 through 179-38. (Reserved)

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- § 179-39. Declaration of emergency.
- § 179-40. Parking prohibited on certain streets.
- § 179-41. Placement of signs.
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- §§ 179-50 through 179-54. (Reserved)

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(Reserved)

ARTICLE VIII

Handicapped Parking

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- § 179-57. Filing of records.
- § 179-58. Regulations.
- § 179-59. Violations and penalties.

ARTICLE IX
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- § 179-60. Parking for repairs prohibited.
- § 179-61. Major repairs.
- § 179-62. Simple maintenance and repairs.
- § 179-63. Public rights-of-way.
- § 179-64. Violations and penalties.
- §§ 179-65 through 179-66. (Reserved)

ARTICLE X
Operation of Unlicensed Motor Vehicles

- § 179-67. Operation of unlicensed motor vehicles.

ARTICLE XI
Interpretation and Repeal; Penalties

- § 179-68. Severability.
- § 179-69. Repeal of previous ordinances; effect.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 2-8-2000 by Ord. No. 2000-2, approved 2-8-2000.¹ Amendments noted where applicable.]

¹ Editor's Note: This ordinance also repealed former Ch. 179, Vehicles and Traffic, adopted 5-5-1981 by Ord. No. 81-3, approved 5-5-1981, as amended.

GENERAL REFERENCES

Streets and sidewalks — See Ch. 166.

ARTICLE I
General Regulations

§ 179-1. Definitions and interpretation.

- A. Words and phrases, when used in this chapter, shall have the meanings ascribed to them in the Vehicle Code of Pennsylvania, as now in force or as hereafter amended, enacted or reenacted, except where the context clearly indicates a different meaning.
- B. The term “legal holidays” as used in the chapter shall mean and include New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas, or days celebrated as such.
- C. In this chapter, the singular shall include the plural, the plural shall include the singular and the masculine shall include the feminine and the neuter.

§ 179-2. Manner of adopting permanent traffic and parking regulations.

All traffic and parking regulations of a permanent nature shall be enacted as ordinances or parts of ordinances or as amendments to ordinances of the Borough of Mahanoy City.

§ 179-3. Temporary and emergency regulations.

- A. The Borough Council, Mayor and Police Department shall have the following powers to regulate traffic and parking temporarily and in time of emergency:
 - (1) In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations.

- (2) In the case of emergency or to facilitate public works, or in the conduct of parades, processions or public events, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than 72 hours.
 - (3) To facilitate moving, fuel deliveries or home repairs, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than 24 hours, upon receipt and review of sufficient information regarding the reason and circumstances of the request.
- B. Such temporary and emergency regulations shall be enforced by the Mayor and Police Department in the same manner as permanent regulations. Any person who shall operate or park a vehicle or tractor in violation of any such regulation, or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulation, shall be subject to fine(s) and/or towing as set forth in §§ 179-27.3 and 179-43 of this chapter and/or applicable provisions of the Pennsylvania Crimes and/or Vehicle Codes.

§ 179-4. Experimental regulations.

- A. The Borough Council, Mayor and Police Department may, from time to time, designate places upon and along the highways in the borough where, for a period of not more than 90 days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect and shall designate such locations by proper signs and markings. Such regulations, prohibitions and restrictions shall be effective just as if they had been specified in this chapter. No person shall operate or park a vehicle or tractor in violation of any such regulation, prohibition or restriction, and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by authority of this section.

- B. The purpose of this section is to allow for the test and experimental determination of the feasibility and desirability of permanent changes in the ordinances of the borough relative to traffic and parking.

§ 179-5. Enforcement; exemptions.

- A. This chapter shall be enforced by the police officers of the Borough of Mahanoy City, who are hereby given authority to direct traffic on the highways and intersections of the borough in accordance with the provisions of this chapter and the laws of the Commonwealth of Pennsylvania.
- B. It is the duty of the police officers of the borough or person employed by the borough to enforce parking regulations and ticket any violator of these regulations.
- C. Speed limit enforcement.
 - (1) The police force of the Borough of Mahanoy City is hereby authorized to use the VASCAR device or any other commonwealth-approved speed measuring device in order to enforce the vehicular speed limitation laws of the Commonwealth of Pennsylvania and the Borough of Mahanoy City.
 - (2) The borough police force is hereby authorized to execute arrest of vehicle operators for violation of vehicular speed limitation laws of the Commonwealth of Pennsylvania and the Borough of Mahanoy City as detected by the VASCAR device or other means of detecting vehicular speed available to the arresting officers.
- D. Police officers of the borough, while operating motorized or nonmotorized official vehicles, and while responding to or at the scene of crimes in progress or call for service, are exempt from the provisions of this chapter, so long as their operation is consistent with department policy pertaining to the operation of police vehicles.

**ARTICLE II
Traffic Regulations**

§ 179-6. Use of sidewalks by motor vehicles.

No person shall operate a motor vehicle or tractor upon any sidewalk in the borough; nor shall any person operate a motor vehicle upon or across any sidewalk except in order to gain access to or egress from a driveway or alley at such locations where the curb, if such sidewalk is curbed, shall have been properly cut down for the purpose.

§ 179-7. Speed limits established.

The speed limit for both directions of traffic along the highways or parts thereof described below is hereby established at the rate of speed indicated:

Name of Highway	Speed Limit (mph)	Location
All streets except as below	25	Within borough limits
Center Street	35	D Street west to borough limits
Center Street	35	12th Street east to borough limits

§ 179-8. Traffic control signals.

Traffic control signals shall be installed and operated at the intersection of those highways described below:

- A. Three light traffic control signal:

Intersection

- Center Street at D Street
- Center Street at Catawissa Street

Intersection

Center Street at Main Street
 Center Street at 4th Street
 Center Street at 8th Street
 Center Street at 12th Street

B. Flashing red four-way stop signal:

Intersection

Mahanoy Street at Catawissa Street
 Mahanoy Street at Main Street

§ 179-9. One-way highways established.

The highways or parts of highways described below are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
1st Street	North	Center Street to Railroad Street
1st Street	North	Spruce Street to Mahanoy Street
1st Street	South	Center Street to Market Street
1st Street	South	Pine Street to Mahanoy Street
3rd Street	North	Center Street to Railroad Street
3rd Street	South	Center Street to Market Street
3rd Street	South	Pine Street to Mahanoy Street

Name of Street	Direction of Travel	Limits
5th Street	North	Mahanoy Street to Market Street
5th Street	South	Mahanoy Street to South Street
5th Street	South	Railroad Street to Market Street
6th Street	South	Center Street to Mahanoy Street
7th Street	South	Railroad Street to South Street
9th Street	South	Center Street to Mahanoy Street
11th Street	South	Railroad Street to Mahanoy Street
13th Street	South	Center Street to Mahanoy Street
A Street	North	Center Street to Railroad Street
A Street	South	Center Street to Maple Street
B Street	North	Maple Street to Center Street except from South Street to Mahanoy Street
C Street	North	Center Street to Railroad Street
C Street	South	Center Street to Maple Street

Name of Street	Direction of Travel	Limits
Linden Street [Repealed 6-8-2004 by Ord. No. 2004-5, approved 6-8-2004]		
Linden Street [Added 6-8- 2004 by Ord. No. 2004-5, approved 6-8-2004]	South	Market Street to Maple Street
Locust Street	South	Center Street to Maple Street

(Cont'd on page 17911)

Name of Street	Direction of Travel	Limits
Maple Street	West	Main Street to D Street
Market Street	West	14th Street to D Street
Pine Street	East	D Street to 14th Street
Railroad Street	East	Main Street to 11th Street
Railroad Street	West	Catawissa Street to D Street
West South Street [Added 8-8-2000 by Ord. No. 2000-4, approved 8-8-2000]	West	Main Street to D Street

§ 179-10. U-turns

It shall be unlawful for the operator of a motor vehicle or tractor to make a U-turn on any of the highways or parts which are properly posted.

§ 179-11. Turns at intersections.

No person shall make a turn of the kind designated (left, right or all) at any intersections where properly approved and posted signage prohibits said turning.

§ 179-12. (Reserved)

§ 179-13. Through highways.

The highways described below are hereby established as through highways, and the operator of every vehicle or tractor upon approaching any such highway at any intersection thereof (except for such intersections where there are now or shall

hereafter be located official traffic signals) shall come to a full stop, within a reasonable distance, before entering any such through highway:

Name of Highway	Limits
	(Reserved)

§ 179-14. Stop intersections.

The intersections described below, along with any additional intersections so designated by future act(s) of Borough Council, are hereby established as stop intersections, and official stop signs shall be erected in such a position upon the first-named highway as to face traffic approaching the second-named highway in the direction or directions indicated. All vehicles and tractors approaching any such intersection upon the first-named highway, in the direction or directions indicated in each case, shall come to a full stop, within a reasonable distance, before entering any such intersection:

Stop Sign on	Direction of Travel	At Intersection of
1st Street	North	Railroad Street
1st Street	North	South Street
1st Street	North	Mahanoy Street
1st Street	South	Market Street
1st Street	South	Pine Street
1st Street	South	Mahanoy Street
2nd Street	South	South Street
2nd Street	North	Center Street

Stop Sign on	Direction of Travel	At Intersection of
2nd Street	North	Market Street
2nd Street	North	Pine Street
2nd Street	North	Mahanoy Street
2nd Street	South	Center Street
2nd Street	South	Market Street
2nd Street	South	Pine Street

(Cont'd on page 17913)

Stop Sign on	Direction of Travel	At Intersection of
2nd Street	South	Mahanoy Street
3rd Street	North	Market Street
3rd Street	North	Railroad Street
3rd Street	South	Market Street
3rd Street	South	Pine Street
3rd Street	South	Mahanoy Street
4th Street	North	Mahanoy Street
4th Street	North	Pine Street
4th Street	North	Market Street
4th Street	North	Railroad Street
4th Street	South	Market Street
4th Street	South	Pine Street
4th Street	South	Mahanoy Street
5th Street	South	Pine Street
5th Street	North	Pine Street
5th Street	North	Market Street
5th Street	North	Center Street
5th Street	South	Center Street
5th Street	South	Market Street
6th Street	North	Mahanoy Street
6th Street	South	Center Street
6th Street	South	Pine Street
6th Street	South	Mahanoy Street
7th Street	South	Center Street
7th Street	South	Market Street
7th Street	South	Pine Street

Stop Sign on	Direction of Travel	At Intersection of
7th Street	South	Mahanoy Street
7th Street	South	South Street
8th Street	North	South Street
8th Street	North	Mahanoy Street
8th Street	North	Pine Street
8th Street	North	Market Street
8th Street	South	Market Street
8th Street	South	Pine Street
8th Street	South	Mahanoy Street
8th Street	South	South Street
9th Street	South	South Street
9th Street	North	Mahanoy Street
9th Street	North	Railroad Street
9th Street	South	Center Street
9th Street	South	Market Street
9th Street	South	Pine Street
9th Street	South	Mahanoy Street
10th Street	North	Market Street
10th Street	North	Mahanoy Street
10th Street	North	Pine Street
10th Street	North	Center Street
10th Street	South	Center Street
10th Street	South	Pine Street
10th Street	South	Mahanoy Street
10th Street	South	Market Street
11th Street	South	Center Street

Stop Sign on	Direction of Travel	At Intersection of
11th Street	South	South Street
11th Street	North	Mahanoy Street
11th Street	South	Market Street
11th Street	South	Pine Street
11th Street	South	Mahanoy Street
12th Street	North	Pine Street
12th Street	South	Pine Street
13th Street	South	Market Street
13th Street	South	Pine Street
13th Street	South	Mahanoy Street
13th Street	North	Mahanoy Street
14th Street	North	Center Street
14th Street	South	Mahanoy Street
A Street	South	Center Street
A Street	South	Market Street
A Street	South	Pine Street
A Street	South	Mahanoy Street
A Street	South	South Street
A Street	South	Spruce Street
A Street	South	Maple Street
A Street	North	Railroad Street
B Street	North	Spruce Street
B Street	North	South Street
B Street	North	Mahanoy Street
B Street	North	Pine Street
B Street	North	Market Street

Stop Sign on	Direction of Travel	At Intersection of
B Street	North	Center Street
B Street	South	Center Street
B Street	South	South Street
B Street	North	Maple Street
Beech Street	North	Birch Street
Beech Street	South	Birch Street
Beech Street	South	Vine Street
Birch Street	East	Main Street
Birch Street	West	Main Street
C Street	North	Railroad Street
C Street	South	Market Street
C Street	South	Pine Street
C Street	South	Mahanoy Street
C Street	South	South Street
C Street	South	Spruce Street
C Street	South	Maple Street
Catawissa Street	North	Spruce Street
Catawissa Street	North	Mahanoy Street
Catawissa Street	North	Railroad Street
Catawissa Street	South	Mahanoy Street
Catawissa Street	South	Spruce Street
Catawissa Street	South	Maple Street
Church Street	North	Spruce Street
Church Street	North	South Street
Church Street	South	Spruce Street
D Street	North	Mahanoy Street

Stop Sign on	Direction of Travel	At Intersection of
D Street	South	Mahanoy Street
Grant Street	South	Maple Street
Grant Street	North	Spruce Street
Grant Street	North	South Street
Grant Street	South	Spruce Street
Harrison Street	South	Maple Street
Harrison Street	North	Spruce Street
Harrison Street	North	South Street
Harrison Street	South	Spruce Street
Laurel Street	East	Main Street
Laurel Street	West	Main Street
Linden Street	North	Railroad Street
Linden Street	South	Center Street
Linden Street	South	Market Street
Linden Street	South	Pine Street
Linden Street	South	Mahanoy Street
Linden Street	South	South Street
Linden Street	South	Spruce Street
Linden Street	South	Maple Street
Locust Street	North	Railroad Street
Locust Street	South	Market Street
Locust Street	South	Pine Street
Locust Street	South	Mahanoy Street
Locust Street	South	South Street
Locust Street	South	Spruce Street
Locust Street	South	Maple Street

Stop Sign on	Direction of Travel	At Intersection of
Locust Street	North	Birch Street
Locust Street	South	Vine Street
Mahanoy Street	East	D Street
Mahanoy Street	East	Catawissa Street
Mahanoy Street	East	Main Street
Mahanoy Street	East	12th Street
Mahanoy Street	West	14th Street
Mahanoy Street	West	12th Street
Mahanoy Street	East	6th Street
Mahanoy Street	West	6th Street
Mahanoy Street	West	Main Street
Mahanoy Street	West	Catawissa Street
Mahanoy Street	West	D Street
Maple Street	West	Linden Street
Maple Street	West	Catawissa Street
Maple Street	West	B Street
Maple Street	West	D Street
Maple Street	West	Church Street
Market Street	East	D Street
Market Street	West	14th Street
Market Street	West	12th Street
Market Street	West	11th Street
Market Street	West	10th Street
Market Street	West	8th Street
Market Street	West	6th Street
Market Street	West	4th Street

Stop Sign on	Direction of Travel	At Intersection of
Market Street	West	Main Street
Market Street	West	Catawissa Street
Market Street	West	B Street
Market Street	West	D Street
McKinley Street	South	Maple Street
McKinley Street	North	Spruce Street
McKinley Street	North	South Street
McKinley Street	South	Spruce Street
Oak Street	North	Birch Street
Oak Street	South	Vine Street
Pine Street	East	B Street
Pine Street	East	Catawissa Street
Pine Street	East	Main Street
Pine Street	East	2nd Street
Pine Street	East	4th Street
Pine Street	East	6th Street
Pine Street	East	8th Street
Pine Street	East	10th Street
Pine Street	East	12th Street
Pine Street	East	14th Street
Pine Street	East	D Street
Railroad Street	East	Main Street
Railroad Street	East	2nd Street
Railroad Street	East	4th Street
Railroad Street	East	6th Street
Railroad Street	East	8th Street

Stop Sign on	Direction of Travel	At Intersection of
Railroad Street	West	B Street
Railroad Street	East	10th Street
Railroad Street	West	D Street
South Street	East	D Street
South Street	East	Catawissa Street
South Street	East	Linden Street
South Street	East	Main Street
South Street	East	1st Street
South Street	East	6th Street
South Street	East	8th Street
South Street	West	8th Street
South Street	West	6th Street
South Street	West	1st Street
South Street	West	Main Street
South Street	East	D Street
South Street	East	4th Street
South Street	East	10th Street
South Street	East	12th Street
South Street	West	12th Street
South Street	West	10th Street
South Street	West	4th Street
Spruce Street	East	D Street
Spruce Street	East	B Street
Spruce Street	East	Catawissa Street
Spruce Street	East	Linden Street
Spruce Street	East	Main Street

Stop Sign on	Direction of Travel	At Intersection of
Spruce Street	West	Main Street
Vine Street	East	Main Street
Vine Street	West	Main Street

§ 179-15. Yield right-of way intersections.

The intersections described below are hereby established as yield right-of-way intersections, and official yield signs shall be erected in such a position upon the first-named highway as to face traffic approaching the second-named highway in the direction or directions indicated. All vehicles and tractors approaching any such intersection upon the first named highway, in the direction or directions indicated, shall yield the right-of-way to any vehicle in the intersection or approaching on the second-named highway so closely as to constitute an immediate hazard during the time that the operator of such vehicle or tractor is moving across or within such intersection:

Yield Sign on	Direction of Travel	At Intersection of
	(Reserved)	

§ 179-16. No-passing zones.

It shall be unlawful for any person driving a vehicle to pass any other vehicle which is proceeding in the same direction on any street or roadway in the borough limits.

§ 179-17. Closing certain highways to certain vehicles.

It shall be unlawful for any person to operate any vehicle or tractor except a passenger vehicle (but not including any passenger vehicle drawing any trailer to rowing any other vehicle) upon any of the portions of the highways described

below; provided, however, that nothing herein shall prohibit the operation of any commercial vehicle or tractor upon any highway or portion thereof listed below where such operation thereon shall be necessary in order to pick up or deliver any goods, wares, merchandise or material from or to any premises located upon any such highway or portion thereof:

Name of Highway	Limits
	(Reserved)

§ 179-18. Vehicle weight limits established.

It shall be unlawful for any person to operate any commercial vehicle or other tractor, trailer or tractor-trailer combination having a gross weight in excess of that herein respectively prescribed upon any of the highways or portions thereof described below, except for the purpose of making local deliveries on that highway:

	Maximum Gross Weight	
Name of Highway	(tons)	Location
		(Reserved)

§ 179-19. Operation of vehicles on closed highways.

It shall be unlawful for any person to operate any vehicle or tractor upon any highway in the borough that is under construction, resurfacing or repair, in disregard of any official sign, barricade or notice that the same is closed to vehicular traffic or where traffic is restricted by official posting.

§ 179-20. Play highways.

- A. The Mayor is hereby authorized to designate as play highways, whenever he shall deem such action advisable and for whatever period of time directed by him, any

portion of any highway in the borough whereon sledding and coasting shall be permitted. Such highway shall be set apart for the purpose under the direction of the Mayor.

- B. No person shall operate any motor vehicle or tractor upon any play highway at any time when such highway shall be so designated except in case of emergency, with special permission of the Mayor or of the police officer in charge, who shall first clear such play highway of all persons using such highway for the purpose for which it was set aside.
- C. The portions of highway described below are hereby established as play highways during the times designated:

Name of Highway	Days	Hours	Location
(Reserved)			

§ 179-21. Violations and penalties.

Any person violating the provisions of this article shall be guilty of a summary offense and, upon conviction thereof, shall be punishable by a fine of \$25 and costs of prosecution.

**ARTICLE III
Parking Regulations**

§ 179-22. Vehicles to be parked in marked spaces.

Wherever a space shall be marked off on any highway for the parking of an individual vehicle, every vehicle there parked shall be parked within the lines bounding such space.

§ 179-23. Angle parking.

No person shall park a vehicle upon any of the highways or parts thereof described below except at the angle designated

and only within the painted stall lines. On all highways or portions thereof where angle parking is now or shall hereafter be authorized, all vehicles parked thereon shall be parked with the front thereof nearest the curb.

Name of Street	Side	Angle	Location
Center Street	South	40°	Entire length
Main Street	East	40°	Entire Length

§ 179-24. Parking prohibited at all times.

No persons shall park a vehicle at any time upon any of the highways or parts thereof described below:

Name of Highway	Side	Location
1st Street	East	Railroad Street to Market Street
1st Street	West	Pine Street to Mahanoy Street
1st Street	East	Mahanoy Street to Spruce Street
3rd Street	West	Entire length
5th Street	West	Entire length
6th Street	East	Mahanoy Street to South Street
7th Street	East	Railroad Street to South Street
9th Street	East	Center Street to Mahanoy Street
11th Street	East	Center Street to Mahanoy Street
12th Street	West	From Center Street to Market Street
13th Street	East	Center Street to Mahanoy Street

Name of Highway	Side	Location
A Street	East	Market Street to Mahanoy Street
A Street	West	Mahanoy Street to Maple Street
A Street	West	Railroad Street to Market Street
B Street	West	South Street to Mahanoy Street
C Street	East	Railroad Street to Mahanoy Street
C Street	West	Mahanoy Street to Maple Street
Catawissa Street	West	From Pine Street north to the end of the playground
D Street [Amended 4-8-2003 by Ord. No. 2003-3; approved 4-8-2003]	West	Railroad Street to Mahanoy Street
Linden Street [Added 6-8-2004 by Ord. No. 2004-4; approved 6-8-2004]	East	Center Street to Market Street
Locust Street	East	Center Street to Maple Street
Locust Street	West	Center Street to Railroad Street
South Street	North	D Street to Main Street

§ 179-25. Parking prohibited during certain hours.

- A. No person shall park a vehicle between the hours specified below of any day, except Saturdays, Sundays and holidays, upon any of the highways or parts of highways described below:

Name of Street	Side	Hours	Location
Railroad Street	South	8:00 a.m. to 5:00 p.m.	From Main Street to Second Street
11th Street	West; Tues. and Fri. only	7:00 a.m. to 3:00 p.m.	From Centre Street to Railroad Street

§ 179-26. Parking time limited.

No person shall park a vehicle or allow the same to remain parked upon any of the highways or parts of highways described below between the hours specified, for longer than the time limit indicated below; provided that if parking meters have been installed at any of the described locations, the parking time limits for parking meters shall be observed:

Name of Street	Side	Hours	Time Limit	Location
(Reserved)				

§ 179-27. Restricted or special purpose parking zones.

Except for a vehicle(s) for which the restriction was created, no person shall park a vehicle at any location where an act of Borough Council has created a special purpose parking zone where normal parking is restricted during certain hours of the day, weeks of the month, or months of the year, or for specific purpose or by type of vehicle, and where such zone is marked by official signs and roadway markings in compliance with prevailing PennDOT requirements.

(Cont'd on page 17927)

§ 179-27.1. Parking of recreational equipment and utility trailers. [Added 10-14-2003 by Ord. No. 5-2003¹]

- A. No recreational equipment as defined in Subsection D hereof shall be parked or stored on any street, alley or thoroughfare within the Borough of Mahanoy City; provided however, that such recreational equipment may be parked on any such street, alley or thoroughfare for a period not to exceed seven days or 168 hours during loading or unloading. While so temporarily parked, any such recreational equipment which is not self-propelled must be attached to a motorized vehicle displaying current license plates and registration and be fully insured as required by law.
- B. No utility trailers shall be parked or stored on any street, alley or thoroughfare within the Borough of Mahanoy City, whether or not it is attached to a motorized vehicle; provided, however, that utility trailers may be parked on any such street, alley or thoroughfare for a period not to exceed 48 hours during loading and unloading. While so temporarily parked, any such utility trailer must be attached to a motorized vehicle displaying current license plates and registration and be fully insured as required by law.
- C. No recreational equipment shall be used for living, sleeping or housekeeping purposes when parked in any location not approved for such use.
- D. "Recreational equipment" is defined as boats, boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, buses and the like, and cases or boxes used for transporting recreation equipment whether occupied by such equipment or not.

¹ Editor's Note: This ordinance also repealed former § 179-27.1, Parking prohibited by type of vehicle.

- E. Any person violating the provisions of this section shall be guilty of a summary offense and, upon conviction thereof, shall be punishable by a fine of not less than \$100 and not more than \$300 and costs of prosecution.

§ 179-27.2. Additional parking regulations.

In addition to the other provisions of this article, and except when temporarily necessary to avoid conflict with other traffic or to protect the safety of any person or vehicle or in compliance with law or the directions of a police officer, fire-police officer or official traffic-control device, no person shall stand or park any part of a vehicle:

- A. Within 15 feet of a fire hydrant;
- B. Where signs and/or roadway markings prohibit parking;
- C. Within an intersection or its actual implied crosswalk;
- D. On a sidewalk or in a driveway or other accessway in such a manner as to block pedestrian passage on a sidewalk;
- E. Within 15 feet of an intersection;
- F. Facing the wrong way on a posted one-way street;
- G. Facing against traffic across the center of a two-way street;
- H. On the roadway side of any vehicle stopped or parked at the edge of a roadway or curb, except for the temporary loading and unloading of persons or property;
- I. In front of or on the street or curbside obstructing access to a public or private garage entrance or driveway;
- J. Within 20 feet of the driveway entrance to a fire station and, where posted, across the street from the entrance to a fire station and within 75 feet of the entrance;
- K. In such a manner as to obstruct or hinder the free flow of traffic;

- L. Which bears expired or missing registration and/or inspection stickers; or
- M. On private property in violation of posted parking restrictions and upon complaint of the property's owner, manager or agent thereof.

§ 179-27.3. Violations and penalties. [Amended 10-14-2003 by Ord. No. 6-2003]

- A. Except as set forth below, any person violating the provision of this article shall be guilty of a summary offense and, upon conviction thereof, shall be punishable by a fine of \$15 and costs of prosecution; provided that if a notice of violation is placed upon a vehicle, stating the monetary amount to be paid at the Police Department in satisfaction of the violation and the time within which such payment is to be made, the payment of the stated amount at the Police Department of the Borough of Mahanoy City within the stated time shall be deemed to be in full satisfaction of the violation.
- B. Any person violating the provisions of §§ 179-27.2J and 179-27.2L of this article shall be guilty of a summary offense and, upon conviction thereof, shall be punishable by a fine of \$50 and costs of prosecution; provided that if a notice of violation is placed upon a vehicle, stating the monetary amount to be paid at the Police Department in satisfaction of the violation and the time within which such payment is to be made, the payment of the stated amount at the Police Department of the Borough of Mahanoy City within the stated time shall be deemed to be in full satisfaction of the violation.

ARTICLE IV
Abandoned Vehicles

§ 179-28. Definitions

As used in this article, the following terms shall have the meanings indicated:

ABANDONED VEHICLE — A vehicle (other than a pedalcycle) shall be presumed to be abandoned under any of the following circumstances, but the presumption is rebuttable by a preponderance of the evidence:

- A. The vehicle is physically inoperable and is left unattended on a highway or other public or private property for more than 48 hours;
- B. The vehicle has remained illegally on a highway or other public or private property for a period of more than 48 hours;
- C. The vehicle is left unattended on or along a highway or other public or private property for more than 48 hours and does not bear all of the following:
 - (1) A valid registration plate.
 - (2) A certificate of inspection.
 - (3) An ascertainable vehicle identification number; and/or
- D. The vehicle has remained on private property without the consent of the owner or person in control of the property for more than 48 hours.

JUNKED VEHICLE — A motor vehicle or trailer which is partially dismantled, unused, unusable or wrecked and which cannot safely or legally be operated on the streets or highways of this Borough or commonwealth. Currently licensed, registered and inspected vehicles shall not be included within this definition.

MOTOR VEHICLE — Any self-propelled land vehicle which can be used for towing or transporting people or materials, including, but not limited to, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.

MOTOR VEHICLE ACCESSORIES — Any part or parts of any motor vehicle.

PERSON — Includes any natural person, firm, partnership, association, corporation or other legal entity of whatever kind.

PRIVATE PROPERTY — Any real property not owned by the federal government, state, county, school district or other political subdivisions.

PUBLIC NUISANCE — The unsheltered storage of a junked motor vehicle as otherwise defined in this chapter which constitutes a hazard or threat or potential threat to the health, safety or welfare of the Borough's citizens.

REMOVAL — The physical location or relocation of a motor vehicle to an authorized location.

TRAILER — Any wheeled device used as a means of carrying, hauling or conveying any vehicle, person, animal, boat or other object.

(Cont'd on page 17931)

UNSHELTERED STORAGE — Any storage except storage inside a building or in an area completely surrounded by a solid fence of a height not less than the height of the motor vehicle or trailer being sheltered.

§ 179-29. Prohibited acts.

- A. It shall be unlawful for any person owning or having custody of any abandoned vehicle, junked motor vehicle or motor vehicle accessories which create a hazard or threat or potential threat to the health, safety or welfare of the borough's citizens to store or permit any such vehicle or accessories to remain in unsheltered storage on any private property or public street or highway within the borough for a period of more than 30 days after the expiration of the thirty-day period following receipt of a notice requiring such removal, and it shall be further unlawful for any person owning any private property in the borough or leasing any such property to store or to permit to remain any such vehicles or accessories on his property for more than a like period.
- B. It shall further be unlawful for any person, after notification has been given to remove any abandoned vehicle junked motor vehicle or motor vehicle accessories which constitute a public nuisance, to move the same or any other abandoned vehicle, junked motor vehicle or motor vehicle accessories to any other private property within the borough upon which such storage is not permitted or onto any public highway or other public property within the borough for purposes of storage or disposal.
- C. Exemptions.
 - (1) The prohibitions of Subsection A hereof shall not apply to the premises of a business enterprise otherwise operated in a lawful place and manner when necessary to the operation of such business enterprise, in a storage place or depository

maintained in a lawful place and manner or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and nonmotorized vehicles or trailers. Such business enterprises shall include auto repair and auto body shops but shall not include tire, battery and accessory sales stores, and the provisions hereof extending to permitted storage shall not extend to the storage at such business enterprises of more than five junked vehicles and/or trailers at any one time.

- (2) The prohibition of Subsection A hereof shall likewise not be applicable to salvors holding a current certificate of authorization issued by the Department of Transportation of the Commonwealth of Pennsylvania; provided, however, that such salvor is otherwise operating in a lawful place and manner.

§ 179-30. Enforcement officials; removal of vehicles.

- A. Enforcement of this chapter will be by officers of the Mahanoy City Police Department and the appointed Code Enforcement Office of the Borough of Mahanoy City. All towing and disposition of vehicles, junked vehicles and/or motor vehicle accessories will be by a PennDot-approved salvor according to the provisions of Chapter 73 of the Pennsylvania Vehicle Code.
- B. Abandoned vehicles on public streets and parking lots open to the public.
 - (1) For vehicles deemed hazardous due to leaking fluids, jagged exposed metal edges or other such hazardous conditions that may present a danger to the public, the Police Department may order the immediate removal of said vehicles under the existing towing policy.
 - (2) For vehicles with registration and/or inspection expired less than 30 days or physically inoperable and left unattended on a highway or other public

property for more than 48 hours, the Police Department will send, via regular mail, notice to the registered owner to remove said vehicle within five days. If the vehicle is not removed within five days, the Police Department will sticker the vehicle as abandoned. If the owner of the vehicle has taken no action within five days after placement of the sticker, the police will complete the necessary PennDot forms and authorize the closest PennDot-authorized salvor to remove the vehicle.

- (3) For vehicles with registration and/or inspection expired more than 30 days, the Police Department will sticker the vehicle as abandoned and send, via regular mail, notice to the registered owner to remove said vehicle within five days. If the vehicle is not removed within five days, the Police Department will complete the necessary PennDot forms and authorize the closest PennDot-authorized salvor to remove the vehicle.

C. Junked vehicles and motor vehicle accessories. For junked vehicles and/or motor vehicle accessories on private property, the Police Department will send, via certified mail, notice to the property owner to remove said junked vehicle and/or motor vehicle accessories within 15 days. If the junked vehicles and/or motor vehicle accessories are not removed within 15 days from receipt of certified mail, the Police Department and/or Code Enforcement Officer will coordinate removal of junked vehicles and/or motor vehicle accessories as allowed by law.

§§ 179-31 through 179-33. (Reserved)

§ 179-34. Violations and penalties.

- A. The penalty for violating the provisions of § 179-29A is \$50 and cost of prosecution.
- B. The penalty for violating the provisions of § 179-29B is a fine of no less than \$200 nor more than \$500 and cost of prosecution.
- C. Fines levied shall be in addition to the charges for towing and storage of said vehicle as set forth in § 179-30.

§§ 179-35 through 179-38. (Reserved)

ARTICLE V
Snow and Ice Emergencies

§ 179-39. Declaration of emergency.

In order to facilitate the movement of traffic and to combat the hazards of excessive snow and ice on the highways or portions of highways named in § 179-40 below, either the Borough Council, the Mayor or the Police Department in their discretion may declare an emergency due to such hazards.

§ 179-40. Parking prohibited on certain streets.

- A. After any such emergency shall have been declared, it shall be unlawful during the period of such emergency for any person to park a motor vehicle or tractor or to allow the same to remain parked on any highway or portion thereof named in Subsection B below, or to operate any motor vehicle or tractor on any such highway or portion thereof unless such vehicle or tractor shall be equipped with adequate equipment to provide sufficient traction to keep such vehicle or tractor in motion so that other traffic on such highways will not be blocked or seriously impeded.

- B. The highways or portions thereof to which the provisions of this article shall be applicable during all periods of emergency declared as provided in § 179-39 above shall be as posted by act of Borough Council.

§ 179-41. Placement of signs.

- A. In order to assist the operators of motor vehicles and tractors in determining the highways affected by this article, the Borough Council, Mayor and Police Department or the Chief of Police shall place in each affected block signs stating the conditions of the parking restrictions.
- B. The Mayor or the Chief of Police shall also, through radio, newspaper or other available media, disseminate the information as to the existence of such emergency.

§ 179-42. Violations and penalties.

Any person who shall park or abandon a motor vehicle, tractor, motorized vehicle or trailer upon or along any of the highways or portions thereof listed in § 179-40B at any time during a period of emergency declared as provided in § 179-39 shall be guilty of a violation of this article and subject to the following penalties:

- A. A fine of \$50 plus cost of prosecution; and
- B. Removal of the vehicle or trailer from the affected roadway on authority of the Mayor and/or Police Department, with the costs of removal and storage to be assumed by the registered owner of said vehicle or trailer and in addition to any fines levied.

ARTICLE VI

Removal and Impoundment of Certain Vehicles**§ 179-43. Scope of article and authorization for removal.**

The police officers of the borough shall have authority to remove and impound, or order the removal and impoundment, of any vehicle parked on any of the streets, highways or public property in the borough in violation of any provision of the law or of any ordinance of the borough, or following a motor vehicle collision where the vehicle is immobilized on the roadway, is leaking fluids or presents such other impediment or hazard to traffic and/or passersby, and/or when the operator of said vehicle is unable to furnish the name of a preferred towing service, able to reach the scene in a reasonable period of time based upon the officer's assessment of prevailing traffic and/or weather conditions. The provisions of this article shall not apply to the removal of abandoned vehicles, vehicles under investigative hold and/or any towing situation which is regulated by specific statute or regulation.

§ 179-44. Designation of approved towing services and/or storage garages; bonding; towing and storage.

- A. Removal and impounding of vehicles under this article shall be done only by approved tow services and/or storage garages that shall be designated from time to time by Council. Every such tow service and/or storage garage shall submit evidence to the Borough Council that it is bonded or has acquired liability insurance in an amount satisfactory to Council as sufficient to indemnify owners of impounded vehicles against loss or damage to those vehicles while in the custody of the garage keeper for the purpose of towing or storage. The approved tow service and/or storage garage shall submit to Council its schedule of charges for towing and storage of vehicles under this article, and, when the schedule is approved by Council, those charges shall be adhered to by the approved towing and/or storage garage; no different

schedule of charges shall be adopted without approval of Council, and no different charges shall be demanded of or collected from any person whose vehicle is removed or impounded under this article by an approved tow service and/or storage garage.

- B. Towing services and storage garages shall make impounded vehicles available to police officers conducting legal investigations and shall release or allow access to impounded vehicles only with written authorization of the Mahanoy City Police Department.
- C. Towing services shall be responsible for the cleanup and removal of debris, including fluids, from the scenes of collisions or other towing incidents and shall equip their vehicles with necessary cleanup equipment to include, but not be limited to brooms, shovels, fluid absorbent and the like.
- D. Council shall delete from its list of approved towing services and/or storage garages any service or garage that demonstrates a pattern of failure to comply with the provisions of this section, including unapproved charges and/or repeated failures to respond to requests for services under normal conditions.

§ 179-45. Notification of removal and impounding.

Within 12 hours after the time of removal of any vehicle under authority granted by this article, when the vehicle's owner was not present at the time of the vehicle's removal, notice of the fact that the vehicle was removed shall be sent by the Police Department to the owner of record of the vehicle. The notice shall designate the place from which the vehicle was removed, the reason for its removal and impounding and the garage in which it was impounded.

§ 179-46. Effect of payment of towing and storage charges.

The payment of any towing and storage charges authorized under this article shall, unless payment is made under protest, be final and conclusive, and shall constitute a waiver of any right to recover the money so paid. If payment of any towing or storage charge is made under protest, the offender shall be entitled to a hearing before a District Justice. Payment of towing and storage charges shall not relieve the owner or operator of any vehicle from liability for any fine or penalty for the violation of the provisions of this chapter on account of the vehicle was removed and impounded.

§ 179-47. Records of vehicles removed and impounded.

The Police Department shall keep a record of all vehicles impounded under this article and shall be able at all reasonable times to furnish the owners or the agents of the owners of those vehicles with information as to the place of storage of the vehicles.

§ 179-48. Restrictions upon removal of vehicles

Except for vehicles which are impounded, for purposes of investigation of Pennsylvania Crimes Code and Vehicle Code offenses, as further defined in Police Department policy, no vehicle shall be removed under the authority of this article if, at the time of the intended removal, the owner or the person for the time being in charge of the vehicle is present and expresses a willingness and intention to remove the vehicle immediately.

§ 179-49. Towing service schedule.

The Mayor and Police Department shall be responsible for disseminating the information in this chapter to towing services and storage garages interested in providing on-call services and for receiving and maintaining records of the information

required under § 179-44, and for developing, implementing and maintaining records of a systematic and equitable on-call rotation of the interested towing services and storage garages which meet the established criteria.

§§ 179-50 through 179-54. (Reserved)

ARTICLE VII
(Reserved)

ARTICLE VIII
Handicapped Parking

§ 179-55. Definitions and word usage.

- A. In this article, the singular shall include the plural, the plural shall include the singular and the masculine shall include the feminine and neuter.
- B. As used in this article, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

HANDICAPPED PERSON — An individual possessing a handicapped or severely disabled veteran registration plate or placard.

HANDICAPPED PARKING SIGN — A sign issued by the Borough of Mahanoy City, reserving parking for one vehicle space and erected at a designated and agreed upon area for access for a handicapped person.

ISSUING AUTHORITY — The Mahanoy City Borough Council.

OWNER — The actual owner, agent or custodian of the property where a sign will be erected.

§ 179-56. Application required; application procedure.

- A. It shall be unlawful for any person or owner to erect a handicapped parking sign upon private grounds of such person or owner or upon the sidewalks of the Borough of Mahanoy City without first making application for a handicapped parking sign through the Borough of Mahanoy City.
- B. The Borough will promulgate and have available said applications for handicapped parking signs. Said applications will be available at the office of the Borough Secretary.
- C. Upon approval of an application, the applicant shall pay a fee of \$50 to the Borough of Mahanoy City.
- D. Annual review. [**Amended 1-11-2005 by Ord. No. 2005-2, approved 1-11-2005**]
 - (1) All approved applications shall be subject to annual review. As part of the annual review, the approved applicant will be required to submit an updated statement from his or her physician stating and confirming that the disability from which the applicant suffers is of a continuing nature, that the applicant suffers from the disability at the present time and the anticipated duration of the disability.
 - (2) Failure to abide by the provisions of this subsection may result in Borough Council suspending or terminating the applicant's privilege to possess a handicap parking sign pursuant to this section of the Borough Code.
- E. An annual maintenance/administrative fee of \$20 will be paid to the Borough not later than January 31 of each year.

- F. Applicants must possess a handicapped or severely disabled veteran registration plate or placard in order to obtain an application. (Owners of disabled veteran plates or placards, as distinguished from owners of severely disabled veteran plates or placards, are not eligible for handicapped parking signs.)
- G. Applications are to be completed in their entirety.
- H. Each applicant shall submit with the completed application a written statement from his or her physician describing the disability at the time of application, including but not limited to the anticipated duration of the disability.

(Cont'd on page 17941)

- I. Applications are subject to review by representatives of the Anthracite Regional Center for Independent Living.
- J. Approval or denial of applications shall be at the discretion of the Mahanoy City Borough Council.
- K. Borough Council may also authorize, via the same application process and fee schedule, the installation of handicapped parking spaces at physicians' offices or businesses which can demonstrate the need for said spaces. All provisions of this article not specifically addressing residential handicapped spaces shall apply to commercial spaces as well.

§ 179-57. Filing of records.

The Mahanoy City Borough Secretary shall maintain a log of all existing handicapped parking signs at the time of the effective date hereof. Further, the Borough Secretary will maintain a log of all applications made and applications granted for handicapped parking signs.

§ 179-58. Regulations.

- A. Any stipulations made at the time of application regarding the eligibility of an applicant may be updated periodically at the request of the issuing authority.
- B. Handicapped parking signs shall not supersede existing parking regulations, including but not limited to street sweeping, snow ban or snow removal regulations.
- C. Handicapped parking signs will remain the property of the Borough of Mahanoy city.
- D. The issuing authority shall be notified immediately if an eligible person no longer qualifies for a sign under this article; for example, if an eligible person enjoys an improved health condition or is required to move from the premises wherein the sign is located.

- E. The Mahanoy City Police Department will police and control areas governed by handicapped parking signs:
- (1) The overall availability of parking in the area wherein a sign is requested.
 - (2) The living arrangements of an individual applicant; for example, a disabled person living alone and responsible for his or her own transportation.
 - (3) Existing parking problems in the area wherein a sign is requested.
- F. The Borough of Mahanoy City reserves the right to remove any handicapped parking sign at its discretion.

§ 179-59. Violations and penalties.

- A. It shall be unlawful for any person to park a motorized or nonmotorized vehicle or trailer in a duly approved, authorized and posted residential handicapped parking space, except for vehicles registered to the applicant or an immediate family member of the applicant, and which bear a handicapped person or severely disabled veteran registration plate or properly displayed state-issued placard.
- B. It shall be unlawful for any person to park a motorized or nonmotorized vehicle or trailer in a duly approved, authorized and posted commercial handicapped parking space, except for vehicles bearing a handicapped person or severely disabled veteran registration plate or properly displayed state-issued placard.
- C. Any person violating the provision of this article shall be guilty of a summary offense and, upon conviction thereof, shall be punishable by a fine of \$50 and costs of prosecution; provided that if a notice of violation is placed upon a vehicle, stating the monetary amount to be paid at the Police Department in satisfaction of the violation and the time within which such payment is to be made, the payment of the stated amount at the Police

Department of the Borough of Mahanoy City within the stated time shall be deemed to be in full satisfaction of the violation.

ARTICLE IX

Parking for Repairs Prohibited

§ 179-60. Parking for repairs prohibited.

No person, whether owner of a vehicle, operator of a vehicle or repairman shall park or permit to be parked any motor vehicle upon any highway, parking lot, street, alleyway or other public right-of-way in the Borough of Mahanoy City for the purpose of performing major repairs on that vehicle.

§ 179-61. Major repairs.

A "major repair" is defined as the replacement and/or repair of transmission, engines, rear ends or the painting of vehicles and shall include but not be limited to any other repair or repairs that will disable the vehicle for a period of more than eight hours.

§ 179-62. Simple maintenance and repairs.

Simple mechanical maintenance and minor repairs such as oil changes, draining of radiators, brake fluids, transmission fluids and other such minor repairs shall be permitted to be performed upon highways, parking lots, streets, alleyways or other public rights-of-way in the Borough of Mahanoy City if, and only if, the following conditions are met:

- A. The work area must be properly marked with reflectors or cones.
- B. The ground area under the vehicle must be properly covered to prevent contamination or staining of the public right-of-way caused by leakage of oil, fluids or similar substances.

- C. All fluids drained must be properly disposed of in accordance with the Pennsylvania Department of Environmental Protection regulations. No fluids may be disposed of onto borough streets, into borough storm sewers, gutters or the like.

§ 179-63. Public rights-of-way.

No vehicle maintenance and/or repairs, whether major or minor, can be made by a commercial garage or any individual for fees upon any public right-of-way, including highways, parking lots, streets, alleyways or the like of the Borough of Mahanoy City, unless they are necessitated by emergency conditions and then only to the extent to permit the vehicle to be moved to a garage or other commercial location where the remaining repairs can be performed.

§ 179-64. Violations and penalties.

Violation of this article shall constitute a summary offense which shall be punishable by a fine of not less than \$100 or not more than \$1,000. Fines shall be in addition to any other costs incurred by the borough or any other agency which may become involved in the removal of the vehicle or vehicle parts, which include fluid.

§§ 179-65 through 179-66. (Reserved)

ARTICLE X

Operation of Unlicensed Motor Vehicles

§ 179-67. Operation of unlicensed motor vehicles.

- A. No person shall operate, nor shall any owner permit to be operated on any roadway, trafficway, sidewalk, public or private ground within the Borough of Mahanoy City, any unlicensed motorcycle of the kind commonly called

“minibike,” “trail bike” or similar type or any snowmobile or all-terrain vehicle or any other unlicensed motor vehicle.

- B. Every owner of a motor vehicle of the type described in Subsection A who shall knowingly permit any person, minor or adult, to operate such motor vehicle in violation of the terms of this chapter shall be jointly and severally liable with such person for any damages caused by such person in operating such vehicle.
- C. No person shall park or store, nor shall any property owner permit to be parked or stored, on any roadway, trafficway, sidewalk or public ground within the Borough of Mahanoy City any unlicensed motorcycle of the kind commonly called “minibike,” “trail bike” or similar type or any snowmobile or all-terrain vehicle, or any other unlicensed motor vehicle.
- D. Any person who shall violate the provisions of Subsections A and B above shall, upon conviction in a summary proceeding, be sentenced to the following:
 - (1) First offense: \$50 and cost of prosecution.
 - (2) Second and subsequent offense by the same person following disposition of the first case and whether involving the same or different vehicle: \$200 and cost of prosecution.
- E. Any person who shall violate the provisions of Subsection C above shall be subject to a parking fine of \$15 with additional penalties assessed by the courts in accordance with current practices when the fine is not paid within five days of issuance.
- F. In addition to the penalties assessed in Subsections D and E above, the Police Department or Code Enforcement Officer may authorize employees of the borough or an approved towing service to remove unlicensed motor vehicles to an approved place of storage. Where the borough removes said vehicles, removal shall be to a borough-owned facility, and a storage fee of \$100 shall be

levied in addition to any fines also levied. The borough also reserves the right to dispose of vehicles impounded by the borough under this section if unclaimed within 30 days.

- G. In addition to the exemption afforded police officers in § 179-50D of this chapter, other emergency services personnel shall be exempt from the provisions of this article when it is necessary to operate an all-terrain vehicle or snowmobile during times of natural disaster, weather emergency or special operations (e.g., search-and-rescue missions). Such operation must have the approval of the incident commander and be with due regard for the safety of the operator and others.

ARTICLE XI

Interpretation and Repeal; Penalties

§ 179-68. Severability.

The provisions of this chapter shall be severable, and, if any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, such decision shall not affect the validity of any of the remaining provisions of this chapter. It is hereby declared as a legislative intent that this chapter would have been adopted had such unconstitutional, illegal or otherwise invalid provisions not been included herein.

§ 179-69. Repeal of previous ordinances; effect.

- A. All previous ordinances of the Borough of Mahanoy City pertaining to the regulation of traffic and parking are hereby repealed.
- B. The repeal of ordinances provided for in Subsection A above shall not affect or prevent the prosecution or punishment of any person for any act done or liability incurred in violation of any ordinance or regulation in

force immediately prior to the taking effect of this chapter.

- C. The provisions of this chapter, insofar as they are the same as those of ordinances and regulation in force immediately prior to the enactment of this chapter, are intended as a continuation of such ordinances and regulations and not as new enactments.

WATER

Chapter 182

WATER

ARTICLE I

Connection Required

- § 182-1. Definitions and word usage.
- § 182-2. Use of public water system required.
- § 182-3. Building mains and connections.
- § 182-4. Water service charges.
- § 182-5. Connection, customer facilities and tapping fees.
- § 182-6. Regulations governing building mains and connections to mains.
- § 182-7. Appeals; hardship.
- § 182-8. Violations and penalties.
- § 182-9. Enforcement.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Municipal Authorities — See Ch. 28.
Building construction — See Ch. 72.
Uniform construction codes — See Ch. 78.
Creeks and drains — See Ch. 80.
Floodplains — See Ch. 103.
Plumbing — See Ch. 146.
Sewers — See Ch. 159.

ARTICLE I

Connection Required**[Adopted 4-13-2004 by Ord. No. 2004-2¹]****§ 182-1. Definitions and word usage.**

As used in this article, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

AUTHORITIES ACT — The Municipality Authorities Act of 1945, Act No. 164, May 2, 1945, P.L. 382, 53 P.S. § 301 et seq., as presently and hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

AUTHORITY — The Mahanoy Township Authority, a body corporate organized under the Authorities Act incorporated by the Township, acting through its Board.

BOROUGH — The Borough of Mahanoy City, Schuylkill County, Pennsylvania, acting through the Borough Council of Mahanoy City.

BUILDING MAIN — The extension from the water system of any structure to the lateral of a main.

IMPROVED PROPERTY — Any property within the Borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals.

INDUSTRIAL ESTABLISHMENT — Any improved property located within the Borough and used or intended for use, wholly or in part, for the manufacturing, processing, cleaning, laundering or assembling of any product, commodity or article.

LATERAL — Part of the water system extending from a main to the curb stop, or if no such lateral shall be

¹ Editor's Note: This ordinance superseded former Ch. 182, Art. I, adopted 3-10-1998 by Ord. No. 98-1, approved 3-10-1998.

provided, "lateral" shall mean that portion of, or place in, a main which is provided for connection of any building main.

MAIN — Any pipe or conduit constituting a part of the water system used or usable for water distribution purposes.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

PERSON — Any individual, partnership, association, society, trust, corporation, municipality, municipal authority or other group or entity. Whenever used in any clause prescribing and imposing a penalty, or imposing a fine or imprisonment, or both, the term "person" shall include the partners of a partnership, the members of an association or society and the officers of a corporation.

WATER SYSTEM — All facilities, as of any particular time, for production, transmission, storage and distribution of water in the Borough owned by the Authority for maintenance, operation and use.

- B. In this article, the singular shall include the plural; the plural shall include the singular, and the masculine shall include the feminine and neuter.

§ 182-2. Use of public water system required.

- A. The owner of any improved property abutting upon the water system shall connect such improved property with and shall use such water system in such manner as the Authority may require, within 90 days after notice to such owner from the Authority to make such connection; subject to such limitations and restrictions as shall be established herein or otherwise shall be established by the Authority.
- B. The notice by the Authority to make connection to a main referred to in Subsection A shall consist of a copy of this article, including any amendments and/or

supplements at the time in effect, or a summary of each section thereof, and a written or printed document requiring the connection in accordance with the provisions of this article and specifying that such connection shall be made within 90 days after the date such notice is given or served. Such notice may be given or served at any time after a main is in place which can deliver water to the particular improved property. Such notice shall be given or served upon the owner in accordance with law.

§ 182-3. Building mains and connections.

- A. No person shall uncover, connect with, make any opening into, use, alter or disturb, in any manner, any main or any part of the water system without first obtaining a permit in writing from the Authority.
- B. Application for a permit required under Subsection A shall be made by the owner of the improved property served or to be served with notice as provided in § 182-2A, or by the duly authorized agent of such owner.
- C. No person shall make or shall cause to be made a connection of any improved property to a main until such person fulfills each of the following conditions:
 - (1) Notify the Authority of the desire and intention to connect such improved property to a main;
 - (2) Apply for and obtain a permit as required by Subsection A of this section;
 - (3) Give the Authority at least 24 hours' notice before such connection will be made in order that the Authority may supervise and inspect or may cause to be supervised and inspected the work of connection and necessary testing; and
 - (4) If applicable, furnish satisfactory evidence to the Authority that any tapping (or connection) fee which may be charged and imposed by the Authority

against the owner of each improved property who connects such improved property to a main has been paid.

- D. Except as otherwise provided in this Subsection D, each improved property shall be connected separately and independently with a main through a building main. Grouping of more than one improved property on one building main shall not be permitted, except under special circumstances and for good cause shown, but then only after special permission of the Authority, in writing, shall have been secured and only subject to such rules, regulations and conditions as may be prescribed by the Authority. Nothing herein is to be construed to in any way deprive any owner or person any rights previously acquired by agreement, by operation of law, arising from their chain of title, to continue to receive water from facilities located on the property or properties of others.
- E. All costs and expenses of construction of a building main and all costs and expenses of connection of a building main to the curb stop shall be borne by the owner of the improved property to be connected; and such owner shall indemnify and shall save harmless the Authority from all loss or damage that may be occasioned directly or indirectly, as a result of construction of a building main or of connection of a building main to a main.
- F. A building main shall be connected to a main at the place designated by the Authority and where, if applicable, the lateral is provided. A smooth, neat joint shall be made and the connection of a building main to the lateral shall be made secure and watertight.
- G. If the owner of any improved property located within the Authority and abutting upon the water system, subject to the exception provided for in § 182-2A, after 90 days' notice from the Authority, in accordance with § 182-2A, shall fail to connect such improved property, the Authority may construct such connection and collect

from such owner the costs and expenses thereof in any manner permitted by law.

§ 182-4. Water service charges.

- A. All owners of property connected or connecting to the water system, and all owners of property who may hereafter connect with and use the same shall pay annual water charges in quarterly installments as hereinafter provided, based upon a schedule of rates to be determined by resolution of the Authority.
- B. Water service charges shall be a lien on the properties charged with payment thereof, from the effective date of this article, and if not paid within 30 days' notice, may be collected in any manner provided by law, including but not limited to the entry of a municipal lien of record with the Prothonotary of Schuylkill County, Pennsylvania.

§ 182-5. Connection, customer facilities and tapping fees.

- A. The Authority is hereby authorized to charge certain enumerated fees which may include a connection fee, a customer facilities fee and/or a tapping fee (as those terms are defined in the Authorities Act) and shall be separately set forth in an appropriate resolution of the Authority.
- B. No connection fee or tapping fee shall be charged in a situation where the Authority is providing separate water service to customers who previously were receiving water in a line that also provided distribution of water for other customers.
- C. Any connection fee, customer facilities fee or tapping fee imposed by the Authority shall comply with the provisions of the Authorities Act.

§ 182-6. Regulations governing building mains and connections to mains.

- A. No building main shall be covered until it has been inspected and approved by the Authority. If any part of a building main is covered before so being inspected and approved, it shall be uncovered for inspection, at the cost and expense of the owner of the improved property to be connected to a main.
- B. Every building main of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.
- C. Every excavation for a building main shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Any street, sidewalk or other public property disturbed in the course of installation of a building main shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to the Authority.
- D. If any person shall fail or shall refuse, upon receipt of a notice in writing of the Authority to remedy any unsatisfactory condition with respect to a building main within 60 days of receipt of such notice, the Authority may refuse to permit such person to be served by the water system until such unsatisfactory condition shall have been remedied to the satisfaction of the Authority.
- E. The Authority reserves the right to adopt from time to time, additional rules and regulations it shall deem necessary and proper relating to connections with a main and with the water system, which additional rules and regulations, to the extent appropriate, shall be and shall be constructed as part of this article.

§ 182-7. Appeals; hardship.

In the event any person shall deem the requirement to connect as provided in this article a hardship, such person may appeal to the Authority for relief from such connection requirement which appeal shall be heard in accordance with provisions of the Pennsylvania Local Agency Law.

§ 182-8. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this article shall, upon conviction thereof, be subject to pay a fine of not more than \$600, and in default of payment, to imprisonment for a term not to exceed 30 days. Each day that a violation of this article continues shall constitute a separate offense.

§ 182-9. Enforcement.

The enforcement officer of the provisions of this article shall be the Manager of the Mahanoy Township Authority or such other person as may from time to time be designated by the Mahanoy Township Authority so long as that designee is approved by the Council of the Borough of Mahanoy City.

Chapter 184

**WOODBURNING STOVES AND CHIMNEYS;
SMOKE ALARMS; SELF-EXTINGUISHING
FIRE SUPPRESSION SYSTEMS**

- § 184-1. **Permit required; fee; inspection and fee.**
- § 184-2. **Installation of stoves.**
- § 184-3. **Chimney connections.**
- § 184-4. **Chimneys and fireplaces.**
- § 184-5. **Self-extinguishing fire suppression systems.**
- § 184-6. **Smoke alarms.**
- § 184-7. **Violations and penalties.**

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 7-8-1980 by Ord. No. 406. Amendments noted where applicable.]

GENERAL REFERENCES

**Fire prevention — See Ch. 102.
Furnaces and fuel oil — See Ch. 108.**

- § 184-1. **Permit required; fee; inspection and fee.
[Amended 3-12-2002 by Ord. No. 2002-3, approved
3-12-2002]**

No owner, agent or tenant shall commence with the installation of any chimney, fireplace, stovepipe or wood- or coal-burning stove or appliance unless such person first obtains a permit from the Borough of Mahanoy City. The fee for such permit shall be \$20. Following completion of the installation and before placing the stove, appliance, chimney or fireplace into use, permittee shall notify the Fire Chief, who shall

forthwith inspect the installation to determine that it is in compliance with the requirements of this chapter. The fee for said inspection shall be \$15. If found to be in compliance with this chapter, the Fire Chief shall countersign the permit and note the date of his inspection. If found to be in noncompliance, the Fire Chief shall notify the permittee, in writing, of the nature of the noncompliance, and the stove, chimney, fireplace or appliance shall not be placed into use until the condition has been corrected and reinspected by the Fire Chief and the permit countersigned by him.

§ 184-2. Installation of stoves.

All wood- or coal-burning stoves or appliances shall be at least 36 inches from all combustible materials. Where clearance is less than 36 inches but more than 18 inches, the combustible surface shall be protected by one-fourth-inch asbestos millboard spaced one inch or more from the combustible surface. Adequate space shall be provided to permit air circulation. If clearance is less than 18 inches but more than 12 inches, the combustible wall shall be protected with a four-inch brick veneer wall extending two feet above and two feet beyond each side. All other installation shall be as follows:

- A. All wood- or coal-burning stoves or appliances that have circulating devices shall be at least 24 inches from a combustible surface unless the appliance has a rating for lesser distance from combustible surface.
- B. If the distance of any circulating wood- or coal-burning stove or appliance is 12 inches to 24 inches from the noncombustible surface, the surface shall be protected by one-fourth-inch asbestos millboard spaced one inch or more from the walls with adequate one-inch spacing from the floor to permit air circulation between wall and shield.

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- C. If the circulating wood- or coal-burning stove or appliance is eight inches to 12 inches from the noncombustible surface, the surface shall be protected by one-fourth-inch asbestos millboard covered with No. 28 gauge metal spaced one inch or more from the wall and floor to permit air circulation.
- D. Noncombustible floor material shall extend at least 18 inches beyond the opening from which ashes are removed and at least six inches beyond the sides and rear.

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- E. Where stove legs are at least eighteen (18) inches above a combustible surface, a No. 24 gauge sheet metal shall be used.
- F. Where stove legs are between six (6) and eighteen (18) inches above a combustible surface, a No. 24 gauge sheet metal over one-fourth-inch layer of asbestos millboard or other approved noncombustible material shall be used.
- G. Where stove legs are six (6) inches or less above a combustible surface, a four-inch hollow masonry pad should be laid or an approved noncombustible surface of an inch thickness shall be used.

§ 184-3. Chimney connections.

- A. All stovepipes shall be equal to or larger than the appliance flue connector.
- B. All connector pipe shall be of a minimum of No. 24 gauge black pipe or heavier.
- C. All connector pipe shall rise from the stove toward the chimney at least one-fourth ($\frac{1}{4}$) inch per foot or more.
- D. Crimped end of chimney connector pipe shall point toward stove. Adapters may be used to permit crimped end to point toward stove.
- E. Single wall connector pipe shall not pass through the floor or wall. However, when necessary, a connector may pass through a wall under the following conditions:
 - (1) Where a ventilated-type metal thimble is used and is twelve (12) inches greater in diameter than the chimney connector.
 - (2) Where a metal or burned fireclay thimble is used and the thimble is surrounded on all sides by not less than eight (8) inches of brickwork or equivalent fireproofing material.
 - (3) When all combustible material is removed for a sufficient distance to provide not less than eighteen

(18) inches clearance on all sides of the connector. Any materials used to close this opening must be non-combustible insulating material.

- (4) When the section of the connector pipe passing through the combustible material is replaced by a properly installed section of factory-built insulated Class A pipe for solid fuels.
- F. All stovepipe shall be a minimum of eighteen (18) inches from a combustible surface.
- G. If stovepipe is twelve (12) to eighteen (18) inches from combustible surface, the surface shall be covered with one-fourth-inch asbestos millboard spaced one (1) inch from the wall or ceiling used as a shield.
- H. If stovepipe is nine (9) to twelve (12) inches from combustible surface, the surface shall be covered with one-fourth-inch asbestos millboard with a No. 28 gauge sheet metal spaced one (1) inch from wall or ceiling.

§ 184-4. Chimneys and fireplaces.

- A. Except as herein provided, all chimneys in every building hereafter erected and all chimneys hereafter altered or rebuilt shall be constructed of brick, stone or reinforced concrete or Underwriters' Laboratories-listed Class A chimney. No masonry chimneys shall have walls less than four (4) inches in thickness, and all chimneys shall be lined on the inside with fireclay chimney tile set in portland cement mortar. The lining shall be continuous from the bottom of the flue to its extreme height. No chimney shall be corbeled out more than six (6) inches from a brick wall, and such corbeling shall consist of not less than five (5) courses of brick, unless the chimney requires special construction, and then any specially constructed chimney shall not be corbeled out to such extent that the center of gravity of the chimney would be located so as to endanger the structure.

- B. All chimneys shall project at least three (3) feet above the point of contact with a flat roof or two (2) feet above any roof surface within ten (10) feet horizontally of the chimney. Portland cement may be used in the construction of chimneys with the addition of not more than ten percent (10%) by volume of hydrated lime. No chimney in any building shall have wooden supports of any kind. Supports shall be noncombustible and shall rest upon the ground or foundation walls. Concrete footings under new chimneys shall be as hereinbefore specified for concrete footings under foundation walls. All chimneys which are dangerous from any cause shall be repaired and made safe or taken down.
- C. The fireback of every fireplace hereafter erected shall not be less than eight (8) inches in thickness of solid brickwork or air cell construction, nor less than twelve (12) inches of stone lined with firebrick. When a grate is set in a fireplace, a lining of firebrick at least two (2) inches in thickness shall be added to the fireback, or soapstone, fireclay or cast iron may be used if solidly backed with brick or concrete. All smoke pipes shall enter the chimney through a flue thimble or its equivalent such that the construction shall make a fire-tight joint with the chimney tile flue liner.
- D. All flue holes when not in use shall be closed with tight-fitting metal covers. No wooden beams or joists shall be placed within one (1) inch of the outside face of the chimney or flue, whether the same be for smoke, air or any purpose, except for hot-air flues for heating purposes. No woodwork shall be within four (4) inches of the back wall of any fireplace except if a chimney is built such that the thickness from the flue line is eight (8) inches or more. Necessary woodwork may be placed against the chimney by using asbestos sheeting between and around the wood so placed under the approval of the Building Inspector.

§ 184-5. Self-extinguishing fire suppression systems. [Added 2-11-1992 by Ord. No. 92-3, approved 2-11-1992¹]

A self-extinguishing fire suppression system for all new restaurants is hereby required before said restaurant may pass inspection by the Fire Chief. This provision applies whether or not any deep frying of food is planned for said restaurant.

§ 184-6. Smoke alarms. [Added 2-11-1992 by Ord. No. 92-3, approved 2-11-1992]

A working and operable smoke alarm is required for any and all homes and/or apartment complexes.

- A. Such smoke alarm is required for each apartment unit.
- B. Said smoke alarm is to be located near the sleeping quarters in said home or apartment.
- C. In the case of apartments, it is the landlord's responsibility to install said smoke alarm in each apartment unit.

§ 184-7. Violations and penalties. [Added 2-11-1992 by Ord. No. 92-3, approved 2-11-1992]

Any person violating any of the provisions of this chapter shall be fined not more than one thousand dollars (\$1,000.) or, in default of said fine and costs, be imprisoned for not more than thirty (30) days. Each day's continued violation shall constitute a separate offense.

¹ Editor's Note: This ordinance superseded former § 184-5, Violations and penalties, as amended 5-5-1981 by Ord. No. 81-3, approved 5-5-1981. See now § 184-7, Violations and penalties.