

**BOROUGH OF FRACKVILLE**  
**SCHUYLKILL COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2-12

AN ORDINANCE OF THE BOROUGH OF FRACKVILLE ADOPTING THE 2009 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS, AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY, AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH EXISTING STRUCTURES IN THE BOROUGH; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH

Council of the Borough of Frackville, Schuylkill County, Pennsylvania (the "Borough"), hereby enacts and ordains as follows:

WHEREAS, Council previously enacted and ordained an ordinance adopting the Uniform Construction Code, pursuant to the Pennsylvania Construction Code Act, as its municipal building code; and

WHEREAS, Council had previously adopted what is known as the BOCA Code for purposes of property maintenance; and

WHEREAS, Council desires to adopt the International Property Maintenance Code of 2009, along with amendments as made, including successor International Property Maintenance Codes, as its maintenance code; and

WHEREAS, Section 46202 of the Borough Code, 53 P.S. 46202 entitled "Specific Powers", authorizes any Borough Council to make and adopt ordinances concerning building, housing, property maintenance, plumbing and other regulations; and

WHEREAS, Section 4000.304 of the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. 4000.304, grants power to a municipality to adopt ordinances for the storage and collection of municipal waste, which shall not be less stringent than and not in violation of or inconsistent with the provisions and purposes of the Solid Waste Management Act, 35 P.S. 6018.101, and any regulations promulgated pursuant to same.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by Council of the Borough of Frackville, Schuylkill County, Pennsylvania, in accordance with the specific powers permitted by the Borough Code (53 P.S. §46202) and the statutes noted above, as follows:

## **CHAPTER 1 SCOPE AND ADMINISTRATION**

### **PART 1 – SCOPE AND APPLICATION**

#### **SECTION 101 GENERAL**

##### **101.1. Title**

These regulations shall be known as the International Property Maintenance Code of the Frackville Borough, hereinafter referred to as "this code".

##### **101.2. Scope**

The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

##### **101.3. Intent**

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

##### **101.4. Severability**

If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

#### **SECTION 102 APPLICABILITY**

### **102.1. General**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

### **102.2. Maintenance**

Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

### **102.3. Application of Other Codes**

Repairs, additions or alterations to a structure, or change of occupancy, shall be done in accordance with the procedures and provisions of the Frackville Borough Building Code, *International Fuel Gas Code*, *International Mechanical Code* and the *ICC Electrical Code*. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Schuylkill County Zoning Ordinance, which has jurisdiction of zoning issues in Frackville.

### **102.4. Existing Remedies**

The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

### **102.5. Workmanship**

Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

### **102.6. Historic Buildings**

The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.



## **102.7. Referenced Codes and Standards**

The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

**Exception:** Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

## **102.8. Requirements Not Covered by Code**

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

## **102.9. Application of References**

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

## **102.10. Other Laws**

The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

## **102.11. Amendments, Supplements, and Successor International Property Maintenance Codes**

Any amendments, modifications or revisions made to the 2009 Edition of the International Property Maintenance Code, or any supplement thereto, or successor International Property Maintenance Codes are hereby specifically adopted by the Borough and incorporated into this ordinance unless specifically excepted by ordinance adopted by the Borough.

## **102.12. Boarding Standards**

The boarding standards as set forth in Appendix A, attached hereto and incorporated herein, are made mandatory and shall be given the same force and effect as all other provisions of this ordinance.

# **PART 2 – ADMINISTRATION AND ENFORCEMENT**

## **SECTION 103**

### **DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION**



### **103.1. General**

Council of the Borough of Frackville hereby reserves the right to delegate the responsibilities to enforce and implement this ordinance to a Borough employee including, but not limited to, a code enforcement official, police officer, engineering firm or attorney, depending on the need. This delegation shall be done by motion of Council on an as needed basis. Anyone charged with said responsibility shall be known throughout this ordinance as the code official. As such, that individual or organization can and will be referred to as "the Frackville Borough Maintenance Code Official" or simply "code official" throughout this ordinance.

### **103.2. Appointment**

The code official shall be appointed by the chief appointing authority of the jurisdiction.

### **103.3. Deputies**

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the code official.

### **103.4. Liability**

The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official of any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

### **103.5. Fees**

The fees for activities and services performed for the administration and enforcement undertaken pursuant to this ordinance and the Frackville Borough Property Maintenance Code shall be established by Borough Council by resolution from time to time.

## **SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL**

#### **104.1. General**

The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

#### **104.2. Inspections**

The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

#### **104.3. Right of entry**

Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

#### **104.4. Identification**

The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

#### **104.5. Notices and orders**

The code official shall issue all necessary notices or orders to ensure compliance with this code.

#### **104.6. Department records**

The Borough Secretary shall keep official records of all business and activities of the Borough specified in the provisions of this code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

## **SECTION 105 APPROVAL**

### **105.1. Modifications**

Whenever there are practical difficulties involved in carrying out the provisions of this code, Borough Council shall have the authority to grant modifications for individual cases upon application of the owner or owner's representative, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

### **105.2. Alternative Materials, Methods, and Equipment**

The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where Borough Council finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

### **105.3. Required Testing**

Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, Borough Council shall have the authority to require tests to be made as evidence of compliance at no expense to the Borough.

#### **105.3.1. Test methods**

Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

#### **105.3.2. Test reports**

Reports of tests shall be retained by the code official for the period required for retention of public records.



#### **105.4. Used Material and Equipment**

The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved by the code official.

#### **105.5. Approved Materials and Equipment**

Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

#### **105.6. Research Reports**

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

### **SECTION 106 VIOLATIONS**

#### **106.1. Unlawful Acts**

It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

#### **106.2. Notice of Violation**

The code official shall serve a notice of violation or order in accordance with Section

#### **106.3. Prosecution of Violation**

Any person who fails to comply with any or all of the requirements or provisions of Section 107 or who fails or refuses to comply with any notice, order, or direction of the code official or any other authorized employee of the Borough shall be guilty of a summary offense and, upon conviction, shall pay a fine to the Borough of not less than \$25.00 nor more than \$1,000.00 plus costs of prosecution. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of or non-compliance with this ordinance shall not excuse the violation or non-compliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and non-compliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated in non-compliance with this ordinance may be declared by the Borough to be a public nuisance and abatable as such.

#### **106.4. Continuing Violations**

Each day that a violation continues after due notice has been served shall be deemed a separate offense.

#### **106.5. Abatement of Violation**

The imposition of the penalties herein prescribed shall not preclude the legal officer of the Borough from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

### **SECTION 107 NOTICES AND ORDERS**

#### **107.1. Notice to Person Responsible**

Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

#### **107.2. Form**

Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the violation or violations and why the notice is being issued;
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code;
5. Inform the property owner of the right to appeal;
6. Include a statement of the right to file a lien in accordance with Section 106.3.

#### **107.3. Method of Service**

Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

#### **107.4. Unauthorized Tampering**

Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.

#### **107.5. Penalties**

Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

#### **107.6. Transfer of Ownership**

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

### **SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT**

#### **108.1. General**

When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

##### **108.1.1. Unsafe Structures**

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to



protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

#### **108.1.2. Unsafe Equipment**

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

#### **108.1.3. Structure Unfit for Human Occupancy**

A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

#### **108.1.4. Unlawful Structure**

An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

#### **108.1.5. Dangerous Structure or Premises**

For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings;
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress;
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged;
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to

be capable of resisting natural or artificial loads of one and one-half the original designed value;

5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way;
6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy;
7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act;
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety;
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health;
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.



## **108.2. Closing of Vacant Structures**

If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

### **108.2.1. Authority to Disconnect Service Utilities**

The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

## **108.3. Notice**

Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

## **108.4. Placarding**

Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

### **108.4.1. Placard Removal**

The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.



### **108.5. Prohibited Occupancy**

Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

### **108.6. Abatement Methods**

The owner, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

### **108.7. Record**

The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

## **SECTION 109 EMERGENCY MEASURES**

### **109.1. Imminent Danger**

When, in the opinion of the Borough, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows:

"This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official". It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

### **109.2. Temporary Safeguards**

Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

### **109.3. Closing Streets**

When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

### **109.4. Emergency Repairs**

For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

### **109.5. Costs of Emergency Repairs**

Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

### **109.6. Hearing**

Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Frackville Borough Building Code Appeals Board, be afforded a hearing as described in this code.

## **SECTION 110 DEMOLITION**

### **110.1. General**

Borough Council shall order the owner of any premises upon which is located any structure, which in the code official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

### **110.2. Notices and Orders**

All notices and orders shall comply with Section 107.

### **110.3. Failure to Comply**

If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

### **110.4. Salvage Materials**

When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

## **SECTION 111 MEANS OF APPEAL**

### **111.1. Application for Appeal**

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

### **111.2. Membership of Board**

The Frackville Borough Building Code Appeals Board shall be appointed by Borough Council pursuant to Section 112.1 of the Frackville Borough Building Code.

#### **111.2.1. Alternate Members**

The Borough shall appoint two or more alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

#### **111.2.2. Chairman**

The Board shall annually select one of its members to serve as chairman.



#### **111.2.3. Disqualification of Member**

A member shall not hear an appeal in which that member has a personal, professional or financial interest.

#### **111.2.4. Secretary**

The Borough shall designate a qualified person to serve as secretary to the Board. The Secretary shall file a detailed record of all proceedings in the office of the Borough.

#### **111.2.5. Compensation of Members**

Compensation of members shall be determined by law. Notwithstanding any provisions contained herein, Borough Council may establish compensation of the members by resolution, in accordance with existing case law and statutory provisions.

### **111.3. Notice of Meeting**

The Board shall meet upon notice from the chairman, within 30 days of the filing of an appeal, or at stated periodic meetings.

### **111.4. Open Hearing**

All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Board membership.

### **111.5. Postponed Hearing**

When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

### **111.6. Board Decision**

The Board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed Board members.

#### **111.6.1. Records and Copies**

The decision of the Board shall be recorded. Copies shall be furnished to the appellant and to the code official.

#### **111.6.2. Administration**

The code official shall take immediate action in accordance with the decision of the Board.

#### **111.7. Court Review**

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the Borough.

#### **111.8. Stays of Enforcement**

Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Frackville Borough Building Code Appeals Board.

### **SECTION 112 STOP WORK ORDER**

#### **112.1. Authority**

Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.

#### **112.2. Issuance**

A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

#### **112.3. Emergencies**

Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

#### **112.4. Failure to Comply**

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$1,000.00 or more than \$5,000.00.

## **CHAPTER 2 DEFINITIONS**

### **SECTION 201 GENERAL**

#### **201.1. Scope**

Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

#### **201.2. Interchangeability**

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

#### **201.3. Terms Defined in Other Codes**

Where terms are not defined in this code and are defined in the *International Building Code*, *International Fire Code*, *International Zoning Code*, *International Plumbing Code*, *International Mechanical Code*, or the *ICC Electrical Code*, such terms shall have the meanings ascribed to them as stated in those codes.

#### **201.4. Terms Not Defined**

Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

#### **201.5. Parts**

Whenever the words "dwelling unit", "dwelling", "premises", "building", "rooming house", "rooming unit", "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof".

### **SECTION 202 GENERAL DEFINITIONS**

**ANCHORED.** Secured in a manner that provides positive connection.

**APPROVED.** Approved by the code official.



**BASEMENT.** That portion of a building which is partly or completely below grade.

**BATHROOM.** A room containing plumbing fixtures including a bathtub or shower.

**BEDROOM.** Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

**CODE OFFICIAL.** The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

**CONDEMN.** To adjudge unfit for occupancy.

**DEATTACHED.** When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

**DETERIORATION.** To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

**DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

**EQUIPMENT SUPPORT.** Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

**EXTERIOR PROPERTY.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.

**GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

**HOUSEKEEPING UNIT.** A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

**IMMINENT DANGER.** A condition which could cause serious or life-threatening injury or death at any time.

**INFESTATION.** The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

**INOPERABLE MOTOR VEHICLE.** A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**LABELED.** Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

**LET FOR OCCUPANCY OR LET.** To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

**NEGLECT.** The lack of proper maintenance for a building or structure.

**OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT.** Any individual living or sleeping in a building, or having possession of a space within a building.

**OPENABLE AREA.** That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**OPERATOR.** Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

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

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

**PEST ELIMINATION.** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

**PREMISES.** A lot, plot or parcel of land, easement or public way, including any structures thereon.

**PUBLIC WAY.** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act *which* the defendant was legally required to do.

**STRUCTURE.** That which is built or constructed or a portion thereof.

**TENANT.** A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.



**ULTIMATE DEFORMATION.** The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

**VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**YARD.** An open space on the same lot with a structure.

## **CHAPTER 3**

### **GENERAL REQUIREMENTS**

#### **SECTION 301**

##### **GENERAL**

#### **301.1. Scope**

The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

#### **301.2. Responsibility**

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

#### **301.3. Vacant Structures and Land**

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.