

ORDINANCE NO. 2019-120

AN ORDINANCE OF THE BOROUGH OF MODENA, CHESTER COUNTY, PENNSYLVANIA, ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2015, AND ESTABLISHING THE MINIMUM REGULATIONS GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES TO INSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; PROVIDING FOR THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE, THE DEMOLITION OF SUCH STRUCTURES AND FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; AND REPEALING ORDINANCE NO. 117A, 12/11/2007, 2, AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

Pursuant to the provisions of the Borough Code, Part 1 section 1-109, permitting Boroughs to adopt ordinances regulating buildings and housing, and to adopt by reference a nationally recognized code in a Borough ordinance, the Board of Council of Modena hereby enacts and ordains the following to be an ordinance of the Borough:

SECTION 1. ADOPTION OF THE PROPERTY MAINTENANCE CODE

The International Property Maintenance Code, 2015, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code for the Borough of Modena

SECTION 2. ADDITIONS, INSERTIONS AND CHANGES

The following words and subsections in the International Property Maintenance Code, 2009 (hereafter the "Property Maintenance Code") are hereby revised to substitute the following words and subsections for the original words and subsections contained in the Code [original language is contained in brackets]:

A. Section 101.1

[Borough of Modena, PA];

- D. Section 103.2 shall read as follows:

Appointment. The Code Official shall be appointed by the Board of Council and shall serve at the pleasure of the Board of Council.

- E. Section 103.5 shall read as follows:

Fees. The fees for all work, permits, charges, etc. shall be paid in accordance with the fee schedule resolution adopted by the Board of Council in effect at the time application is made.

- F. The Title of Section 104.6 shall read as follows:

Code Official's Records

- G. Subsection 106.3 shall read as follows:

Prosecution of violation. Persons who shall violate a provision of this Code, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or directive of the Code Official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a summary offense, punishable by a fine of not less than \$500 nor more than \$1,000. per violation. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

- H. Subsection 107.5 is hereby revised by inserting "Section 106.3 and" before "Section 106.4."
- I. Subsection 109.6 is hereby revised by deleting the second sentence.
- J. Section 111 is hereby deleted in its entirety and marked "Reserved".

K. Section 112.4 is hereby revised to substitute the phrase “as provided in Subsection 106.3” for the phrase “of not less than \$500 dollars or more than \$1,000 dollars”.

L. Section 202 is hereby revised to include the following additional definitions:

Occupied. As applied to a building or portion thereof, shall be construed as though followed by the words, "or intended, arranged or designed to be occupied, or having a certificate of use and occupancy.

One Family Dwelling. A building containing one dwelling unit.

Two Family Dwelling. A building containing two dwelling units.

M. Section 202 is hereby amended as follows: in the definition of "owner" the phrase "if ordered to take possession of real property by a court" is hereby deleted from the definition.

N. Section 301 is hereby amended to include the following additional subsection known as 301.2.1:

Where properties abut a public right-of-way, the abutting property owner shall be responsible for the maintenance of the area between their property line and the cartway, including the curb, the sidewalk and grass areas between the curb and the property line."

O. Section 302 is hereby amended to include the following additional subsection known as 302.3.1:

Where sidewalks exist, those responsible (see Section 301.2.1, as amended) for the sidewalks shall have at least a two-foot wide path cleared of snow and ice within 24 hours after the cessation of the snowfall.

EXCEPTION: When more than twelve (12) inches of snow has fallen, those responsible for the sidewalk shall have at least a two-foot wide path cleared of snow and ice within 48 hours after the cessation of the snowfall.

P. Section 302.4. shall read as follows:

302.4.1. **Weeds.** All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten inches (10") in height. The foregoing does not apply to that portion of the tract clearly not accessory to the principal use(s) of the tract and beyond one hundred seventy-five feet (175') from all principal and accessory buildings. The foregoing notwithstanding, all noxious weeds, as defined by the U.S. Department of Agriculture, Natural Resources Conservation Service, are prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

302.4.2. The Code Official, or any Council member or employee of the Borough of Modena is designated thereby for this purpose, is hereby authorized to give notice, by personal service or United States mail, to the owner or occupant or any adult person in charge of said premises, as the case may be, of any property wherein grass or other vegetation is in violation of Section 302.4.1, directing and requiring such occupant or owner to remove, trim or cut such grass, weeds or vegetation so as to conform to the requirements of this ordinance, within 5 days after issuance of such notice.

Whenever, in the judgment of the Code Official, it shall appear to be impracticable to give notice as above provided, either because the owner or occupant cannot readily be found, or because a search for the owner or occupant would entail unreasonable delay, the Borough or any officer or employee of the Borough designated thereby for that purpose, may give notice by posting conspicuously on the property where such nuisance exists, a notice or order directing and requiring that such nuisance be abated within 5 days.

302.4.3. In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Borough may order the removal, trimming or cutting of such grass, weeds or vegetation, and the cost thereof, together with a penalty of ten percent (10%) of the cost thereof shall be collected by the Borough from such person, firm or corporation, in the manner provided by law and may be entered as a municipal lien against the property and owner thereof, for the abatement of nuisance.

Q. Section 302.8 shall read as follows:

Motor vehicles. Only one intact inoperative or unlicensed motor vehicle shall be parked, stored, or kept on any premises. A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

- R. Section 302 is hereby amended to include the following additional subsection known as 302.8.1:
Registered motor vehicles are prohibited from parking on any non-paved area in the front or side yards of a property for a period of greater than 12 hours. Motor vehicles may be parked on non-paved areas in the rear yard providing that a solid fence, a minimum of 6 feet tall, is erected around the rear yard in order to screen the contents of the yard from surrounding neighbors.
- S. Section 304.14 substitute "May 15th" for the first reference of [DATE], and "October 15th" for the second reference of [DATE];
- T. Section 602.3 substitute "October 1st" for the first reference of [DATE], and "May 1st" for the second reference of [DATE];
- U. Section 602.4 substitute "October 1st" for the first reference of [DATE], and "May 1st" for the second reference of [DATE];
- V. Substitute in all relevant Sections of the Code "the Board of Supervisors" for

[THE BOROUGH OF MODENA, PA];

SECTION 3. INCONSISTENT ORDINANCES REPEALED

Ordinance No. **117A, 12/11/2007, 2** and any other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY

The provisions of this Ordinance are severable, and if any section, sentence, clause or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses or provisions of this Ordinance. It is hereby

declared to be the intent of the Board that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause or provision had not been included herein.

SECTION 5.

Nothing in this Ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, nor any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3. of this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 6. DATE OF EFFECT

This Ordinance shall take full force and be in effect five (5) days after enactment.

ENACTED AND ORDAINED by the Board of Borough Council of Modena, PA on the 18th day of March, 2019.

ATTEST:

BOROUGH OF MODENA
BOROUGH COUNCIL

Victoria Cloud
Secretary

By: Clayton Ayres
Council

[Signature]
[Signature]