

Chapter 1

GENERAL PROVISIONS

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

ARTICLE I

General Penalty

[Adopted 5-9-2000 by Ord. No. 2-2000; amended 4-8-2008 by Ord. No. 1-2008]

§ 1-1. Building, housing, property maintenance, health, fire or public safety violations.

The fine or penalty for collection of violations of Borough ordinances shall not be less than the sum of \$25 and shall not exceed the sum of \$1,000 for a violation of a building, housing, property maintenance, health, fire, public safety, and for water, air, and noise pollution violations of prior enacted codes or ordinances.

§ 1-2. Violations of general ordinances.

The fine or penalty for collection of violations of Borough ordinances shall not be less than the sum of \$25 and shall not exceed the sum of \$600 for violation of any other prior enacted code or ordinances as allowed by the Pennsylvania State Borough Code.

ARTICLE II
Adoption of Code
[Adopted 4-8-2008 by Ord. No. 1-2008]

§ 1-3. Approval, adoption and enactment of Code.

Pursuant to Section 1008(b) of the Borough Code [53 P.S. § 46008(b)], the codification of a complete body of legislation for the Borough of Port Carbon, County of Schuylkill, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code, and consisting of Chapters 1 through 236, together with an Appendix, are hereby approved, adopted, ordained and enacted as a single ordinance of the Borough of Port Carbon, which shall be known and is hereby designated as the “Code of the Borough of Port Carbon,” hereinafter referred to as the “Code.”

§ 1-4. Effect of Code on previous provisions.

The provisions of this Code, insofar as they are substantively the same as those of ordinances and resolutions in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Borough Council of the Borough of Port Carbon, and it is the intention of said Borough Council that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-5 below, and only changed provisions, as described in § 1-8 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-17 below.

§ 1-5. Repeal of ordinances not contained in Code.

All ordinances or parts of ordinances of a general and permanent nature adopted by the Borough of Port Carbon and in force on the date of the adoption of this Code and not contained in the Code are hereby repealed as of the effective date given in § 1-17 below, except as hereinafter provided.

§ 1-6. Ordinances saved from repeal; matters not affected by repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-5 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-5 or the saving from repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

- A. Any ordinance adopted subsequent to 12-15-2006.
- B. Any right or liability established, accrued or incurred under any legislative provision of the Borough prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of

action acquired or existing.

- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Borough or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the Borough.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Borough or any lawful contract, obligation or agreement.
- F. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Borough or other instruments or evidence of the Borough's indebtedness.
- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.
- I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.
- J. Any ordinance annexing land to the Borough.
- K. Any ordinance providing for or requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.
- L. Any ordinance or part of an ordinance providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.
- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the Borough or setting the bond of any officer or employee.
- P. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- Q. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Borough, except until that time that the fees are established by resolution.

- R. The following ordinances, which were unaccounted for during the recodification of the Code: 2-2005, 3-2005, 4-2005, 5-2005, 6-2005, 7-2005, 8-2005, 9-2005, 4-2006, 5-2006, 6-2006, 9-2006, 10-2006 and 11-2006.

§ 1-7. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-6A and/or prior to the date of adoption of this ordinance are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.

§ 1-8. Changes and revisions in previously adopted ordinances.

- A. Nonsubstantive grammatical changes. In compiling and preparing the ordinances and resolutions of the Borough for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes will be made upon final publication in one or more of said ordinances. It is the intention of the Borough Council that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such.
- B. Substantive changes and revisions. In addition to the changes and revisions described above, changes and revisions of a substantive nature, as set forth in Schedule A attached hereto and made a part hereof, are hereby made to various ordinances and resolutions included in the Code. These changes are enacted to bring provisions into conformity with the desired policies of the Borough Council, and it is the intent of the Borough Council that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed have been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-17.
- C. Additional changes. The following changes will be incorporated in the Code upon final editing and publication. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-17.
- (1) Article and section numbering will be revised to accommodate any added or deleted materials, and internal references will be updated accordingly.
 - (2) The term “ordinance” will be changed to the term “chapter” or “article,” as appropriate. In addition, the following statutory titles of officials or departments which have become obsolete will be updated as follows:
 - (a) “Justice of the Peace” or “District Magistrate” will be changed to “Magisterial District Judge.”
 - (b) “Department of Environmental Resources” will be changed to “Department of Environmental Protection.”
 - (c) “Department of Community Affairs” will be changed to “Department of Community and Economic Development.”
 - (3) Outdated statutory references will be updated accordingly, and references to

any International Codes will be updated to the 2006 editions.

- (4) The numbering system for the Borough's ordinances will be made consistent using the "number-year" format (e.g., "Ord. No. 3-2003"), except where that would create two identical ordinance numbers adopted on different dates.

§ 1-9. Interpretation of provisions.

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, other ordinance, resolution or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance, resolution or regulation shall control.

§ 1-10. Titles and headings; editor's notes.

- A. Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

§ 1-11. Filing of copy of Code.

At least one copy of the Code in a post-bound volume shall be filed with the Ordinance Book in the office of the Borough Secretary and shall remain there for use and examination by the public. Upon adoption, such copy or copies shall be certified to by the Borough Secretary, as provided by law, and such certified copy or copies shall remain on file in the office of the Borough Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-12. Amendments for Code.

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Borough Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto.

§ 1-13. Code books to be kept up-to-date.

It shall be the duty of the Borough Secretary or someone authorized and directed by him or her to keep up-to-date the certified copy or copies of the book containing the Code

required to be filed in the office of the Borough Secretary for the use of the public. All changes in said Code and all ordinances and resolutions adopted by the Borough Council subsequent to the effective date of this codification which the Borough Council shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances or resolutions are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

§ 1-14. Publication of notices.

The Borough Secretary, pursuant to law, shall cause to be published in the manner required a notice of the introduction and of the adoption of the Code in a newspaper of general circulation in the Borough. The enactment and application of this ordinance, coupled with the publication of the notices of introduction and adoption, as required by law, and the availability of a copy or copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-15. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code or any part or portion thereof, in any manner whatsoever, which will cause the law of the Borough to be misrepresented thereby. Anyone violating this section of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$600, plus costs of prosecution, and, in default of payment thereof, by imprisonment for a term not exceeding 30 days.

§ 1-16. Severability.

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, article, chapter or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article, chapter or part thereof rendered illegal, invalid or unconstitutional. It is hereby declared to be the intent of the Borough Council that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article, chapter or part thereof had not been included therein.

§ 1-17. Effective date.

All provisions of this ordinance and of the Code shall be in force and effect on and after April 8, 2008.

