

**ORDINANCE 2012 - 3**

**BOROUGH OF MAHANOEY CITY  
SCHUYLKILL COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE BOROUGH OF MAHANOEY CITY,  
TO PROVIDE FOR CODE ENFORCEMENT, ENTITLED  
"NEIGHBORHOOD BLIGHT PROTECTIONS AND ENFORCEMENT"**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2012, it is hereby Enacted and Ordained by the Borough Council of the Borough of Mahanoy City, Schuylkill County, Pennsylvania, that:

**NEIGHBORHOOD BLIGHT PROTECTIONS AND ENFORCEMENT**

**Section 1. Purpose.**

The Borough Council finds it to be in the best interests of the residents of the Borough of Mahanoy City, Schuylkill County, Pennsylvania to provide for certain protections and safeguards in order to address deteriorated properties, public nuisances and properties in serious violation of State law or municipal codes. Such protections and safeguards include denial of permits, and actions at law and in equity in order to address deteriorated properties which have an impact upon crime, the quality of life of our residents and require expenditures of public funds in order to abate and correct nuisances, violations and delinquent municipal services accounts.

**Section 2. Definitions.**

For the purpose of this chapter, the following terms shall have the meanings indicated:

**BOARD** — Shall mean a Zoning Hearing Board or other body granted jurisdiction to render decisions in accordance with the Pennsylvania Municipalities Planning Code, the State Borough Code, the Code of the Borough of Mahanoy City or a board authorized to act in a similar manner by law.

**BOROUGH** — The Borough of Mahanoy City, Schuylkill County, Pennsylvania.

**BUILDING** — A residential, commercial or industrial building or structure and the land appurtenant to it.

**BOROUGH CODE** — A building, housing, property maintenance, fire, health or other public safety ordinance enacted or adopted by the Borough, including those ordinances, regulations and resolutions which establish and assess fees for municipal services and privileges such as sewer, water, refuse collection and parking/parking arrangements. For purposes of this Ordinance, the term does not include a subdivision and land development ordinance or a zoning ordinance enacted by the Borough.

**MUNICIPAL PERMIT(S)** — Privileges related to real property granted by a municipality such as the Borough, including, but not limited to, building permits, parking permits, occupancy permits, and special exceptions or variances from zoning ordinances. The term includes approvals pursuant to land use ordinances other than decisions on the substantive validity of a zoning ordinance or map or the acceptance of a curative amendment.

**MUNICIPAL SERVICE(S)** — services provided at a cost by the Borough or other municipal entity, including water service, sanitary sewer service, refuse collection and parking allotments/facilities, which benefit individual properties and also serve to benefit the overall welfare, safety and health of all residents of the Borough.

**OWNER** — A holder of title to residential, commercial or industrial real estate, other than a mortgage lender, who possesses and controls the real estate. The term includes, but is not limited to, heirs, assigns, beneficiaries and lessees, provided this ownership interest is a matter of public record.

**PUBLIC NUISANCE** — Property which, because of its physical condition or use, is regarded as a public nuisance at common law or has been declared by the appropriate Borough official a public nuisance in accordance with the Code of the Borough of Mahanoy City, as amended.

**SERIOUS VIOLATION** — A violation of a State Law or Borough Code (as both terms are defined herein) or other applicable code that poses an imminent threat to the health and safety of the dwelling occupant, occupants in surrounding structures or passersby. Property found to be a Public Nuisance is also considered to be a Serious Violation.

**STATE LAW** — A statute of the Commonwealth or a regulation of an agency charged with the administration and enforcement of Commonwealth law.

**SUBSTANTIAL STEP** — An affirmative action as determined by a Borough official or officer of the court on the part of the property owner or managing agent to remedy a Serious Violation of State Law or Borough Code including, but not limited to, physical improvements or repairs to the property.

**TAX DELINQUENT PROPERTY** — Tax delinquent real property as defined under the Real Estate Tax Sale Law (P.L.1368, No.542), the Municipal Claim and Tax Lien Law (P.L. 207, No.153) or the Second Class City Treasurers' Sale and Collection Act (P.L.876, No.171) located in any municipality in this Commonwealth.

### **Section 3. Legal Action to be Taken Against Owners.**

In addition to any other remedy available at law, including those remedies available under the Neighborhood Blight Reclamation and Revitalization Act (Act 90 of 2010), remedies available in equity or other remedies as provided for in the Code of the Borough of Mahanoy City, the

Borough may institute the following actions against the Owner of any property that is in Serious Violation of a Borough Code or for failure to correct a condition which causes the property to be regarded as a Public Nuisance:

- A. An In Personam action may be initiated for a continuing violation for which the Owner takes no Substantial Step to correct within the six months following receipt of an order by the Borough to correct the violation, unless the order is subject to a pending appeal before an administrative agency or court. Notwithstanding any law limiting the form of action for the recovery of penalties by a municipality for the violation of a Borough Code, the Borough may recover, in a single action under this section, an amount equal to the penalties imposed against the Owner and any costs of remediation lawfully incurred by, or on behalf of, the Borough to remedy any code violation.
- B. A proceeding in equity.
- C. A lien may be placed against the assets of an Owner of real property that is in Serious Violation of Borough Code or is regarded as a Public Nuisance after a judgment, decree or order is entered by a court of competent jurisdiction against the Owner of the property for an adjudication under either an In Personam action or a proceeding in equity as set forth above. In the case of an Owner that is an association or trust, this does not authorize a lien to be placed upon the individual assets of the general partner, trustee, limited partner, shareholder, member or beneficiary of the association or trust except as otherwise allowed by law.

#### **Section 4. Out-of-State Owners, Service of Process upon Associations and Trusts.**

- A. A person who lives or has a principal place of residence outside this Commonwealth, who owns property in this Commonwealth against which Borough Code or other applicable code violations have been cited and the person is charged under 18 Pa.C.S. (relating to crimes and offenses), and who has been properly notified of the violations may be extradited to this Commonwealth to face criminal prosecution to the full extent allowed and in the manner authorized by 42 Pa.C.S. CH. 91 (relating to detainers and extradition).
- B. Where, after reasonable efforts, service of process for a notice or citation for any Borough Code or other applicable code violations for any real property owned by an association or trust cannot be accomplished by handing a copy of the notice or citation to an executive office, partner, or trustee of the association or trust or to the manager, trustee or clerk in charge of the property, the delivery of the notice or citation may occur by registered, certified or United States express mail, accompanied by a delivery confirmation:
  - (1) to the registered office of the association or trust.

- (2) where the association or trust does not have registered office, to the mailing address used for real estate tax collection purposes, if accompanied by the posting of a conspicuous notice on the property and by handing a copy of the notice or citation to the person in charge of the property at that time.

## **Section 5. Permit Denials.**

- A. The Borough or a Board may deny issuing to an applicant a Municipal Permit if the applicant owns real property in any municipality in this Commonwealth for which there exists on the real property:
  - (1) Tax and/or Municipal Services delinquencies on account of the actions of the Owner; or
  - (2) A Serious Violation and the Owner has taken no Substantial Step to correct the Serious Violation within six months following notification of the violation and for which fines, penalties or a judgment to abate or correct were imposed by a magisterial district judge or municipal court or a judgment at law or in equity was imposed by a court of common pleas. No denial shall be permitted if a judgment is subject to a stay or supersedeas by order of court, or if the Municipal Permit is necessary to correct a violation of State Law or Borough Code.
- B. The Municipal Permit denial as above described shall not apply to an applicant's delinquency on taxes and/or Municipal Services charges that are under appeal or otherwise contested through a court or administrative process.
- C. In issuing a denial of a Municipal Permit, the Borough or the Board shall indicate the street address, the municipality and county in which the property is located and the court and docket number for each parcel cited as a basis for the denial. The denial shall also state that the applicant may request a letter of compliance from the appropriate state agency, municipality or school district in the form specified by such entity.
- D. All Municipal Permits denied in accordance with this section may be withheld by the Borough until an applicant obtains a letter of compliance from the appropriate State agency, municipality or school district indicating the following:
  - (1) the property in question has no tax or Municipal Services delinquencies;
  - (2) the property in question is now in compliance with State Law, Borough Code or other applicable codes; or

- (3) the Owner of the property has presented and the appropriate entity has accepted a plan to begin remediation of a Serious Violation of State Law, Borough Code or other applicable codes.
- E. If a letter of compliance or a letter of non-compliance, as the case may be, is not issued within 45 days of the request, the property shall be deemed to be in compliance for the purposes of this section. The appropriate State agency, municipality or school district shall specify the form in which the request for a compliance letter shall be made. Such letters shall be verified by the appropriate municipal officials before issuing to the applicant a Municipal Permit.
- F. Boards, including the Borough Zoning Hearing Board, may deny approval of Municipal Permits - which includes special exception approval and variance relief — if warranted as set forth above to the extent that approval of such a Municipal Permit is within the jurisdiction of the Board.
- G. The Borough may appear to present evidence that the applicant is subject to denial by a Board in accordance with this section.
- H. A Municipal Permit may only be denied to an applicant other than an Owner if the applicant is acting under the direction or with the permission of the Owner and that Owner owns real property that is subject to denial as set forth herein above.

#### **Section 6. Inherited Property Relief.**

Where property is inherited by will or intestacy, the devisee or heir shall be given the opportunity to make payments on reasonable terms to correct code violations or to enter into a remediation agreement with the Borough to avoid subjecting the devisee's or heir's other properties to asset attachment or denial of Municipal Permits and approvals on other properties owned by the devisee or heir. Such opportunity shall be given at the Borough's discretion and subject to the revocation upon the devisee's or heir's failure to proceed with a payment plan, or to progress forward and complete a remediation plan.

#### **Section 7. Severability.**

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

#### **Section 8.**

All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

**Section 9.**

The appropriate officers of the Borough are authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Ordinance.

**Section 10.**

The provisions of this Ordinance shall become effective immediately.

**ORDAINED AND ENACTED** into an Ordinance this \_\_\_\_ day of \_\_\_\_\_ 2012.

ATTEST:

COUNCIL OF THE BOROUGH OF  
MAHANOEY CITY

\_\_\_\_\_  
Dorothy M. Lewis, Secretary

\_\_\_\_\_  
Thomas E. Oblas, Council President

Read and approved by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

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Nancy A. Petritsch, Mayor