

EXISTING STRUCTURES CODE

ORDINANCE NO. _____

An Ordinance adopting as the existing structures code for the Borough of Forest City, The BOCA National Existing Structures Code/1987, with certain modifications, and repealing a prior ordinance.

The Borough of Forest City ordains as follows:

Section 1. Adoption of Existing Structures Code. For the purpose of protecting the public health, safety and welfare in all existing structures, residential and nonresidential, in the Borough of Forest City, and in all existing premises as provided in that code, the Borough adopts as its existing structures code, The BOCA National Existing Structures Code/1987 (Second Edition), subject to provisions in this ordinance amending, deleting, adding to and making insertions in that code. Copies of that code have been placed on file with the Borough Secretary, and will remain on file there. That entire existing structures code, except for those portions that are deleted, amended or modified in the following sections of this ordinance, is adopted and incorporated as fully as if set out verbatim in this ordinance, and, from the date on which this ordinance takes effect, shall be controlling throughout the limits of the Borough in all matters to which that code is made applicable. In this ordinance, The BOCA National Existing

Structures Code may be referred to as "the code" or "this code."

Section 2. Amendments Made in Existing Structures Code. The code adopted by Section one of this ordinance is amended and modified in the following respects:

(1) Wherever the words "name of jurisdiction" appear in brackets in the code, the words "The Borough of Forest City" shall be inserted in place of those bracketed words. Likewise, the words "Borough of Forest City" shall be substituted for the word "jurisdiction" wherever that word appears singly in the code without being preceded by the words 'under the'."

(2) Wherever the term "code official" or the term "administrative authority" is used in the code that term shall mean and refer to the person designated by Borough Council to administer and enforce the code, who may be, but need not be, a "code enforcement officer" as designated by Borough Council to administer and enforce more than one code of the Borough.

(3) Wherever the term "the legislative body of the jurisdiction" or the term "chief authority of the jurisdiction" appears in the code, the term "borough council" shall be substituted for that term.

(4) Wherever the term "the jurisdiction's legal representative" or the term "the jurisdiction's attorney-at-law" appears in the code, the term "borough solicitor" shall

be substituted for that term.

(5) Section ES-100.1 of the code is amended to read as follows:

"ES-100.1. Title: This code shall be known as the "Existing Structures Code of the Borough of Forest City," hereinafter referred to as 'the code' or 'this code.'"

(6) Section ES-100.4 of the code is amended to read as follows:

"ES-100.4. Validity of other laws, regulations and ordinances. Nothing in this code shall be construed to prevent the enforcement of other laws, state regulations and ordinances of this borough which prescribe more restrictive or stricter requirement or limitations. When the provisions specified in this code for health, safety and welfare are more restrictive than other provisions, this code shall control, but in any case, the most rigid requirements of either this code or other laws, regulations or ordinances shall apply whenever they may be in conflict."

(7) Section ES-100.5 of the code is amended to read as follows:

"ES-100.5. Application of other codes: Any repairs or alteration to a structure, or changes of use therein, which are caused directly or indirectly by the enforcement of this code shall be done in accordance with

procedures and provisions of the borough's building and plumbing codes."

(8) Section ES-101.2 of the code is amended to read as follows:

"ES-101.2. Saving clause: Nothing in this code or in the ordinance adopting it by reference shall be construed to affect any suit or proceeding pending in any court at the time of enacting that ordinance, or any rights acquired, or liability incurred, or any cause or causes of action accrued or existing, under any ordinance repealed by that ordinance. No right or remedy of any character shall be lost, impaired or affected by that ordinance."

(9) Section ES-105.3 of the code is amended to read as follows:

"ES-105.3.2. Right of entry: If any owner, occupant or other person in charge of a structure subject to the provisions of this code refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to any part of the structure or premises where inspection authorized by this code is sought, the Borough Solicitor may initiate proper action to seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference."

(10) Section ES-105.5 of the code is amended to read as follows:

"ES-105.5. Continuation of enforcement:

Inspection of premises, the issuance of notices and orders and enforcement thereof shall be the responsibility of the code official so charged by the jurisdiction. Whenever inspections are necessary by any other department, agency or officer of the borough, the code official shall make reasonable effort to arrange for the coordination of those inspections so as to minimize the number of visits by inspectors, and to confer with the other departments, agencies or officers for the purpose of eliminating conflicting orders before they are issued. A department, agency or officer shall not, however, delay the issuance of any emergency orders."

(11) Section ES105.6 of the code is amended to add the following sentence at the end thereof:

"Furthermore, Borough Council shall have authority, at its discretion, to abrogate any rule or regulation, or part thereof, in which case that rule or regulation or part thereof shall cease to be in effect in the Borough."

(12) ES-105.7 of the code is amended to read as follows:

"ES-105.7. Annual report: At least once a year, and oftener if required by Borough Council, the code official shall submit to Council a written statement of operations in such form and content as shall be prescribed by Council."

(13) Section ES-106.1 of the code is amended to read as follows:

"ES-106.1. General: When a structure or part thereof is found by the code official to be unsafe, or when a structure or part thereof is found unfit for human occupancy or use, or is found unlawful, and the procedures prescribed by the Building Code under the heading 'Unsafe Buildings and Structures' shall be found to be inadequate or unsuitable to remedy the situation, that structure or part thereof may be condemned pursuant to the provisions of this code and may be placarded and vacated. It shall not be re-occupied without approval of the code official. Unsafe equipment shall be placarded and placed out of service.

(14) Section ES-110.2 of the code is amended to read as follows:

"ES-110.2. Penalty: Any person who violates any provision of this code shall, upon conviction thereof, be sentenced to pay a fine of not less than ten dollars (\$10) or more than \$300 and costs of prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than 30 days. Provided: each day on which a violation continues after due notice has been served, in accordance with the terms of this code, shall constitute a separate offense."

(15) The following new section shall be added to the code directly after Section ES-110.3:

"ES-110.4. Special conditions: When, in the course of his enforcement duties, the code official finds a recurring existing condition in the existing structures in the Borough which constitutes a violation of any of the strict provisions or application of this code, which violation, if corrected, would not substantially serve to further the purpose of this code in protecting the public health, safety and welfare, and where the elimination of that violation would constitute a practical difficulty or unnecessary hardship because of special conditions existing in the Borough, the code official shall advise and inform the board of appeals of the presence of those special conditions. In providing that advice and information, the code official shall give consideration to the special physical characteristics of existing older structures in the Borough which might require extensive structural alterations to conform to the strict provisions or application of this code. The board of appeals shall then have authority, at its discretion, to authorize a variance from or modification of the specific provisions of this code for such existing structures as recommended by the code official. Any such variance or modification shall be subject to approval or confirmation by Borough Council."

(16) Section ES-111.1 of the code is amended to add the following sentence at the end of that section:

"Provided: The intent of this section Es-112.0. Demolition

is to provide a procedure to be available for use in cases where the procedures prescribed by the Building Code under the heading 'Unsafe Buildings and Structures' or 'Demolition' shall be found to be inadequate or unsuitable to remedy the situation."

(17) Section ES-111.4 of the code is amended by substituting for the word "number," enclosed in brackets, the following: "ten (10)."

(18) Section ES-112.1 of the code is amended to read as follows:

"ES-112.1. Petition: Any person affected by any notice which has been issued in connection with the enforcement of any provision of this code, or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the board; provided that that person shall file, in the office of the board, a written petition requesting the hearing and containing a statement of the grounds therefor within 30 days after the day the notice was served."

(19) Section ES-112.1 of the code is amended to read as follows:

"ES-112.2. Council serves as appeals board: Borough Council shall serve as the code appeals board and shall have all authority, shall perform all duties and may exercise all powers vested in the appeals board by this code. The purpose of the appeals board shall be to protect

existing structures in the Borough by vigorous enforcement of the provisions of this code."

(20) Section ES-112.2.1 of the code is deleted.

(21) Section ES-112.2.2 of the code is amended to read as follows:

"Section 112.2.2. Procedure on appeals: Borough Council, when acting as the code appeals board, shall hear all appeals relative to the enforcement of this code, and by a concurring vote of the majority of its members may reverse or affirm wholly or partly, or may modify, the decision appealed from, and shall make such order or determination as in its opinion ought to be made. Failure to secure such concurring votes shall be deemed a confirmation of the decision of the code official."

(22) Section ES-112.2.3 of the code is amended to read as follows:

"ES-112.2.3. Conflict of interest: Any member of Council, when serving in the capacity of a member of the code appeals board, shall be subject to the same requirements and restrictions as to conflict of interest as are imposed upon Borough Council members by provisions in the statutes."

(23) Section ES-112.3 of the code is amended to read as follows:

"ES-112.3. Records: The Borough Secretary shall serve as secretary when it serves as the code appeals board,

and shall keep a record of each meeting so that the record shows clearly the basis for each decision made by the Council in that capacity."

(24) Section ES-200.3 of the code is amended to read as follows:

"ES-200.3. Terms defined in other codes: Where terms are not defined in this code and are defined in the BOCA National Building Code, the BOCA National Mechanical Code or the BOCA National Plumbing Code, each of the latter two codes containing provisions incorporated by reference into the BOCA National Building Code, they shall have the same meanings ascribed to them in those codes."

(25) Section ES-200.4 of the code is amended to read as follows:

"ES-200.4. Terms not defined: Where terms are not defined under the terms of this code or under the provisions of the building, plumbing and/or mechanical codes referred to in Section ES-200.3, they shall have prescribed to them their ordinarily accepted meanings or such as the context herein as may apply."

(26) The following definitions in Section ES-201.0 of the code are amended to read as follows, and those definitions not changed by this paragraph shall remain in effect without change:

"Basement: That portion of a building which is partly or completely below grade.

"Plumbing: The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances, and appurtenances within the scope of the Borough's plumbing code."

(27) Sections ES-301.10, ES-301.10.1 and ES-301.10.2 of the code are amended to read as follows:

"ES-301.10. Motor vehicles: Motor vehicles shall be subject to the following requirements of Sections ES-301.10.1 and ES-301.10.2:

"ES-301.10.1 Residential areas: Except as provided in other regulations, not more than one presently inoperable motor vehicle shall be parked on any property used or intended to be used primarily for residential purposes, and said vehicle shall not at any time be in a state of major disassembly, disrepair or shall it be in the process of being stripped or dismantled. A vehicle of any type shall not at any time undergo major overhaul, including body work, in a residential district.

"ES-301.10.2. Non-residential areas: Except as provided in other regulations and approved by the code official, not more than two presently inoperable motor vehicles shall be permitted on any property used or intended to be used primarily for non-residential purposes, and any vehicle shall not at any time be in a state of major

disassembly, disrepair nor shall it be in the process of being stripped or dismantled."

(28) The following new section is added directly after Section ES-704.5 of the code:

"ES-704.6. Early detection devices: Every dwelling shall be provided with a minimum of one (1) early detection device located within the unit and maintained in good working order."

Section 3. Saving Clause. Nothing in this ordinance or in the existing structures code adopted by this ordinance shall be construed to affect any suit or proceeding wholly or partially superseded by this ordinance, nor shall any legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 4. Validity. The invalidity of any section or provision of this ordinance or of the BOCA National Existing Structures Code adopted by this ordinance shall not invalidate any other section or provision of either.

Section 5. Short Title: This ordinance, and the BOCA National Existing Structures Code adopted by this ordinance shall be known and may be cited as the "Existing Structures Code of the Borough of Forest City."

Section 6. Repeal of Prior Ordinance. Ordinance 386, enacted December 3, 1984, which adopted by reference the BOCA Basic/National Existing Structures Code/1984 First Edition, with certain changes, is repealed.

ORDAINED AND ENACTED by the Council for the Borough of
Forest City this _____ day of _____, _____.

BOROUGH OF FOREST CITY

By: _____

President of Council

Attest:

Secretary

Examined and Approved this _____ day of _____,

_____.

Mayor

C-IV-C

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