

An Ordinance adopting the BOCA Basic/National Existing Structures Code, successor to the BOCA Basic Property Maintenance Code, with certain modifications and deletions, and repealing certain prior ordinances.

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 on all existing premises as provided in that Code, the Borough adopts in its entirety The BOCA Basic/National Existing Structures Code/1984, First Edition, as published by Building Officials & Code Administrators International, subject to provisions in this ordinance deleting, amending, adding to and making insertions in that Code, hereinafter referred to as "the code."

Section 2. Modifications Made in Existing Structures Code. The code adopted by Section one of this ordinance is modified and changed as follows:

(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 it shall appear singly in the code.

(2) Section ES-100.4 is amended to read as follows:

"ES-100.4 Other regulations: The provisions of this code shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards that are stricter than the corresponding of comparable provisions of this code."

(3) 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ordinance repealed by that ordinance.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."

(4) The term "code official" as used in the code 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 Council to administer and enforce more than one code of the Borough.

(5) Wherever the terms "the chief authority of the jurisdiction" appears in the code, the words "the Borough Council" shall be substituted for the first quoted term.

(6) Wherever the term "the jurisdiction's legal officer" appear in the code, the term "the Borough Solicitor" shall be substituted for that term.

(7) Section ES-105.3.2 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."

(8) Section ES-105.6 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."

(9) Section 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."

(10) 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 reoccupied without approval of the code official. Unsafe equipment shall be placarded and placed out of service."

(11) 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."

(12) 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."

(13) Section ES-111.1 of the code is amended to read as follows:

"ES-111.1 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."

(14) Section ES-111.2 of the code is amended to read as follows:

"ES-111.2 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."

(15) Section ES-11.2.1 is deleted.

(16) Section ES-111.2.2 is amended to read as follows:

"ES-111.2.2 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."

(17) Section ES-111.2.3 is amended to read as follows:

"ES-111.2.3 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."

(18) Section ES-111.3 of the code is amended to read as follows:

"ES-111.3 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."

(19) Section ES-112.1 of the code is amended by adding 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."

(20) Section ES-112.4 is amended by substituting for the word "number" enclosed in brackets, the following: "ten (10)."

(21) Section ES-200.3 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 Basic/National Building Code and in the BOCA Basic/National Mechanical Code and the BOCA Basic/National Plumbing Code, each of the latter two codes containing provisions incorporated by reference into the BOCA Basic/National Building Code, they shall have the meanings as ascribed to them in those codes."

(22) Section ES-200.4 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 may apply."

(23) Sections ES-301.10, ES-301.10.1 and ES-301.10.2 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."

(24) Section ES-301.11 is deleted.

(25) The following new section is added directly after Section Es-704.5:

"ES-704.5 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. Short Title. This ordinance, and "The BOCA Basic/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 4. Repeal of Certain Prior Ordinances. The following ordinances of this Borough are repealed:

1. Ordinance 299, Housing Code, enacted December 6, 1971.

2. Ordinance 355, Property Management Code, enacted September 4, 1979.

ORDAINED AND ENACTED by the Council for the Borough of Forest City, this day of , 1984.

BOROUGH OF FOREST CITY

By: _____
President of Council

ATTEST:

Secretary

Examined and Approved this day of , 1984.

Mayor