

**MUNICIPALITY OF MURRYSVILLE
WESTMORELAND COUNTY, PENNSYLVANIA
ORDINANCE NO. 690-05**

AN ORDINANCE ADDING CHAPTER 86, PROPERTY MAINTENANCE, TO THE MURRYSVILLE CODE, AN ORDINANCE PROVIDING MINIMUM STANDARDS AND ASSOCIATED ENFORCEMENT REMEDIES FOR THE GENERAL EXTERIOR MAINTENANCE OF PROPERTIES WITHIN THE MUNICIPALITY OF MURRYSVILLE, NAMELY EXTERIOR BUILDING SURFACES AND TALL GRASS, IN CONSIDERATION OF HEALTH AND SAFETY ISSUES AND APPLYING ONLY TO THOSE PROPERTIES, PORTIONS THEREOF, AND OF SUCH EXTENT EXPRESSLY DEFINED THEREIN AS PUBLIC NUISANCES.

WHEREAS, the Municipality of Murrysville desires to protect the health, safety, and welfare of its visitors and residents; and

WHEREAS, the Municipality of Murrysville desires to protect both the aesthetic and structural integrity of existing and future neighborhoods and business districts; and

WHEREAS, the Municipality of Murrysville desires to guard against related nuisances that may promote health risks including but not limited to rodent infestation and fire hazards; and ultimate violations of the Pennsylvania Uniform Construction Code; and

WHEREAS, the Municipality of Murrysville desires to provide for the equitable enforcement of express standards in a manner designed to alleviate nuisances only on those properties or portions thereof that bear said nuisances as expressly defined by ordinance;

NOW, THEREFORE, BE IT ORDAINED AND IT IS HEREBY ORDAINED, AND enacted by the Council of the Municipality of Murrysville, County of Westmoreland, Commonwealth of Pennsylvania, in accordance with the above referenced to adopt the following Chapter 86 to be added to the Murrysville Code:

CHAPTER §86, PROPERTY MAINTENANCE

§ 86-1. Definitions.

- A. Agricultural Operation- The management and use of farming resources for the production of crops, livestock or poultry. (As defined by the Nutrient Management Act of 1993 (P.L.12, No.6)).
- B. Building - A combination of materials forming any structure that is erected on the ground and permanently affixed thereto, designed, intended, or arranged for the shelter, enclosure, housing or structural

support of persons, animals, processes, equipment, goods or materials of any kind. Building shall not include driveways, parking spaces or parking lots.

- C. Building, Principal -- A building, or structure, in which, or by which, is conducted the main or principal use of the parcel of land on which it is situated.
- D. Building Code Official – The official appointed by Murrysville Council to enforce the Uniform Construction Code, as defined by the Pennsylvania Uniform Construction Code.
- E. Code Enforcement Officer – The individual(s) employed or contracted by the Municipality of Murrysville to enforce its codes and ordinances based on the enforcement provisions and policies outlined therein.
- F. Developed Lot – Any otherwise vacant property
 - (1). Portions of a lot graded or improved for the express purpose and accommodation of a Principal Building; or
 - (2). Any separate property which accommodates parking or structures accessory to an adjoining principal building or buildings; or
 - (3). Active recreational spaces approved by Murrysville Council in accordance with the Planned Residential Development provisions of the Zoning Ordinance (Chapter 220) or those mandatory land dedication requirements specified in the Murrysville Subdivision Ordinance (Chapter 201).
- G. Improved Lot – Portions of any defined parcel of land bearing a principal building, whether commercial, residential, public, or semi-public, graded or improved for such a purpose or accommodation.
- H. Woodland- Areas, groves or stands of trees covering an area of 1/4 acre or a grove of a grove of trees forming one canopy of such trees.

§ 86-2. Height regulations; nuisance.

- A. No person, firm or corporation owning any properties as defined within section 86-2(B) of this ordinance and within the Municipality of Murrysville, Westmoreland County, Pennsylvania, shall permit any grass or weeds, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of sixteen (16) inches. Any grass, weeds or other vegetation growing

upon any premises in the Municipality of Murrysville in violation of any of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Municipality of Murrysville.

B. The following properties or portions thereof shall be subject to the aforementioned height limitations:

- (1). All Improved Lots and Developed Lots in R-R, R-1, R-2, and R-3 Zoning Districts as defined by Chapter 220, Zoning, less than two acres in area.
- (2). All Improved Lots and Developed Lots in B, MU, and PL Zoning Districts, as defined by Chapter 220, Zoning.
- (3). Areas within all Improved Lots and Developed Lots, containing more than two acres of area, in R-R, R-1, R-2, and R-3 Zoning Districts, as defined by Chapter 220, Zoning, that are within 100 feet of any Principal Building on an adjoining property.
- (4). For purposes of the aforementioned height limitations, all areas in a municipal or private right-of-way between the property line and abutting cartway shall be maintained by the owner in accordance with the provisions otherwise applicable to the adjoining property.

C. The following properties or portions thereof shall be exempt from the provisions of 86-2(A).

- (1). Acreage devoted to agricultural operations.
- (2). Woodlands.
- (3). Vegetation associated with wetlands, as each are defined in Section 220-604(3) of the Murrysville Zoning Ordinance.
- (4). Steep embankments consisting of any area of land of 2:1 or more in slope where the height difference in vertical elevation is eight feet or greater.
- (5). Vacant parcels of land, not otherwise regulated through this ordinance as improved or developed lots, are expressly exempt from its provisions.

D. Notice for Removal. The Code Enforcement Officer shall give notice, by personal service or registered mail to the owner, of any violations of § 86-2 of this chapter, requiring compliance with the terms of this chapter within thirty (30) 10 calendar days of receipt of said notice. Upon failure of owner to:

- (1). Timely comply with a notice for the affected premises, or
- (2). Timely appeal and prevail on an appeal to the Code Board of Appeals under 86-2 (F), or
- (3). Promptly meet with the Code Enforcement Officer to formulate a mutually agreeable remediation plan in appropriate cases, and to complete same within the agreed upon time period.

In such event, the Municipality may direct the performance of the necessary work, either by the municipal personnel or third party service providers, at the expense of the owner, plus an additional 10% for administration expenses. Such expense shall be in addition to the penalty imposed by § 86-2 (E) for the violation of this chapter.

All costs and expenses incurred by the Municipality for such purpose shall be the financial responsibility of the owner. If not paid within thirty (30) days of the Municipality's invoice directed to owner, the Municipality may file a municipal lien against owner and the subject property to recover the said amount in conformity to controlling law, together with costs and reasonable attorney's fees.

No enforcement remedy shall be initiated by the Code Enforcement Officer under Section 86-2 (E) unless owner has failed to timely correct a violation, as aforesaid, or to timely complete a remediation plan, or failed to prevail in any appeal timely filed with the Code Board of Appeals. A violation must be corrected within thirty (30) days of a Board decision adverse to the owner.

An adverse decision of the Code Board of Appeals may be submitted by an owner to Council for review and relief. Such request will not serve to extend the aforesaid thirty (30) day time period for correction of the violation unless such extension is expressly authorized by Council. Council reserves the right to decline such review or the granting of any relief from the provisions of this ordinance.

- E. Enforcement Remedy. Any person, firm or corporation who or which shall violate or fail, neglect or refuse to comply with any of the provisions of this chapter shall, upon summary conviction thereof before a District Justice, be sentenced to pay a fine of not more than \$300 and costs of prosecution and, in default of payment thereof, to imprisonment for not more than 30 days, provided that each day's violation shall constitute a separate offense and notice for removal, provided greater than 30 calendar days has expired since the notice for removal was transmitted and before the related citation is issued, as provided in 86-2 (D).
- F. Appeal of the Decision of the Code Enforcement Officer. Any property owner who wishes to appeal a decision of the Code Enforcement Officer as it relates to a Notice for Removal issued under 86-2 (D), within the 30 calendar days specified in the Notice for Removal, may file an application for appeal to the Code Board of Appeals as established by Murrysville Code **§85-4** and appointed by subsequent resolutions. Upon receipt of a request for hearing and application completed on municipal forms, including the fees specified in Murrysville Code, Chapter 112, the Board of Appeals shall hold a hearing within 30 days. The Code Enforcement Officer shall notify the applicant or property owner of the date, time, and location of the scheduled hearing. The Code Board of Appeals shall grant relief from the decision of the Code Enforcement Officer when the Board finds the following:
- (1). The Officer's decision does not reflect the true intent of this chapter and was incorrectly interpreted.
 - (2). Enforcement of the provisions of this section results in negative environmental impacts which supersede the nuisance impacts specified herein.
 - (3). The provisions of this section do not fully apply.

The Board may rely on the advice of other municipal boards and commissions in making a determination. A written decision including findings of fact shall be rendered within 30 days of the hearing.

§ 86-3. Maintenance of Exterior Structure; nuisance.

- A. The standards specified in this section shall constitute a minimum level of maintenance required for the exterior of any Building and attached decks, balconies, and porches, within the Municipality of Murrysville. Said standards shall also apply to the following accessory structures: swimming pools, retaining walls, and fences or walls. Failure of any property owner to achieve or maintain the standards specified herein

shall constitute a nuisance, as defined by 86-3(C) detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Municipality of Murrysville and shall be subject to the enforcement remedies specified in Section§ 86-3(F).

B. The Municipality hereby adopts and enforces the following sections of the 2003 International Property Maintenance Code, subject to the exclusions and intent outlined in this section:

- (1). 304.2 Protective Treatment
- (2). 304.4 Structural Members
- (3). 304.5 Foundation Walls
- (4). 304.6 Exterior Walls
- (5). 304.7 Roofs and Drainage
- (6). 304.15 Doors
- (7). 304.18, Building Security, excepting subsections 1 through 3.

C. The Code Enforcement Officer shall consider the following as findings of fact, one or more of which shall constitute and define a nuisance that warrants enforcement and remedy administered in accordance with Sections § 86-3(E) and § 86-3 (F) of this Chapter. Where properties within the Municipality of Murrysville fail to attain the standards expressly adopted in § 86-3(B), one or more of the following levels of non-compliance shall constitute a nuisance under this chapter.

- (1). The non-compliance is of such a nature as to directly promote continual and progressive degradation of the subject structure ultimately necessitating a determination by the Building Code Official of the structure as unsafe, as per § 403.84. Unsafe Building, Structure or Equipment, Chapter 403 of the Pennsylvania Uniform Construction Code.
- (2). The non-compliance presents a direct and noxious impact to adjacent property(ies) which continually disrupts the enjoyment, health, safety, and welfare of neighboring occupants, employees, or patrons.
- (3). The non-compliance relates to and promotes the violation of other municipal nuisance ordinances.

- D. Exemptions. Any structure or portion thereof, which is subject to an active building permit issued in accordance with the Pennsylvania Uniform Construction Code, shall be exempt from the provisions of this ordinance. A permit shall be considered abandoned or invalid as per § 403.63, Chapter 403 of the Pennsylvania Uniform Construction Code, entitled, “Grant, Denial and Effect of Permits.” Suspension or abandonment, as cited within the aforesaid section, shall be defined as a failure to demonstrate progressive and continual improvements to the property thereby exhibiting clear intent to complete the project or the progression or phasing of construction in manner that threatens the ultimate integrity of the subject structure, including but not limited to the lack of an exterior finish sufficient to protect against the long term effects of weather and other occurrences. The invalidity of a permit shall be determined by the Building Code Official in consideration of the aforementioned. Additionally, any violation of the Uniform Construction Code, as determined by the Building Code Official, shall be remedied and enforced by the Building Code Official through the provisions of the Uniform Construction Code and shall not be subject to enforcement under the provisions of this chapter.
- E. Enforcement Notice. The Code Enforcement Officer shall give notice, by personal service or registered mail to the owner, of any violations of § 86-3 of this chapter, requiring compliance with the terms of this chapter within 30 to 90 calendar days, depending upon the level of repair required to bring the subject structure into compliance as determined by the Code Enforcement Officer, of receipt of said notice. Upon failure of owner to:
- a. Timely comply with a notice for the affected premises, or
 - b. Timely appeal and prevail on an appeal to the Code Board of Appeals under 86-3 (G), or
 - c. Promptly meet with the Code Enforcement Officer to formulate a mutually agreeable remediation plan in appropriate cases, and to complete same within the agreed upon time period, the Municipality shall issue a citation in accordance with this Section and 86-3(F).

No enforcement remedy shall be initiated by the Code Enforcement Officer under Section 86-3 (F) unless owner has failed to timely correct a violation, as aforesaid, or to timely complete a remediation plan, or failed to prevail in any appeal timely filed with the Code Board of Appeals. A violation must be corrected within thirty (30) days of a Board decision adverse to the owner. An adverse decision of the Code

Board of Appeals may be submitted by an owner to Council for review and relief. Such request will not serve to extend the aforesaid thirty (30) day time period for correction of the violation unless such extension is expressly authorized by Council. Council reserves the right to decline such review or the granting of any relief from the provisions of this ordinance.

- F. Enforcement Remedy. Any person, firm or corporation who or which shall violate or fail, neglect or refuse to comply with any of the provisions of this section shall, upon summary conviction thereof before a District Justice, be sentenced to pay a fine of not more than \$300 and costs of prosecution and, in default of payment thereof, to imprisonment for not more than 30 days, provided that each day's violation shall constitute a separate offense and notice for removal, provided greater than the amount of days specified in the enforcement notice has expired since the notice for removal was transmitted and before the related citation is issued, as provided in 86-3 (E).
- G. Any property owner who wishes to appeal a decision of the Code Enforcement Officer as it relates to a Notice for Removal issued under 86-3 (E) , within 30 days of receipt of the Enforcement Notice, may file an application for appeal to the Code Board of Appeals as established by Murrysville Code **§85-4** and appointed by subsequent resolutions. Upon receipt of a request for hearing and application completed on municipal forms, including the fees specified in Murrysville Code, Chapter 112, the Board of Appeals shall hold a hearing within 30 days. The Code Enforcement Officer shall notify the applicant or property owner of the date, time, and location of the scheduled hearing. The Code Board of Appeals shall grant relief from the decision of the Code Enforcement Officer when the Board finds the following:

- (1). The Officer's decision does not reflect the true intent of this chapter and was incorrectly interpreted.
- (2). The provisions of this section do not fully apply.
- (3). Alternative approaches to maintenance equally meet the intent of this chapter, namely in the maintenance of historic structures.

The Board may rely on the advice of other municipal boards and commissions in making a determination. A written decision including findings of fact shall be rendered within 30 days of the hearing.

THIS ORDINANCE ORDAINED AND ENACTED AT A REGULARLY CONSTITUTED, DULY CONVENED MEETING OF THE COUNCIL OF THE MUNICIPALITY OF MURRYSVILLE, THIS _____ DAY OF _____, 2005.

COUNCIL OF THE MUNICIPALITY OF MURRYSVILLE

Lawrence W. Keller, President

Donald C. Pepe, Municipal Secretary

(Seal)

APPROVED/REJECTED:

Joyce K. Somers, Mayor

Dated: _____, 2005

Member	Yes	No	Absent	Abstain
Jack Bankoske				
Robert J. Brooks				
William Ferri				
Joan C. Kearns				
Lawrence W. Keller				
Dennis Pavlik				
Theo van de Venne				