ORDINANCE NO. 2019 – 10-2

BOROUGH OF RED LION
YORK COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF RED LION, YORK COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF RED LION TO ADOPT A COMMERICAL MAINTENANCE CODE, PROVIDING DEFINITIONS, ESTABLISHING STANDARDS, PROVIDING FOR THE RESPONSIBILITIES OF OWNERS AND OCCUPANTS, PROVIDING FOR RIGHTS OF ENTRY AND INSPECTION, PROVIDING VIOLATIONS AND PENALTIES, AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED AND ORDAINED, by the Council of the Borough of Red Lion, and it is hereby enacted and ordained, in lawful session assembled, as follows:

SECTION 1. A new Chapter 5A of the Red Lion Borough Code, as set forth in the Code of Ordinances of the Borough of Red Lion, adopted on November 12, 1997 by Ordinance 9711-6 is hereby added to read as follows:

Chapter 5A

Commercial and Industrial Property Maintenance Code

Part 1
Commercial and Industrial Property Maintenance Code

Commercial and Industrial Property Maintenance Code

§5A-101. Title.

This Part shall be known and may be cited as the "Commercial and Industrial Property Maintenance Code of the Borough of Red Lion."

§5A-102. Definitions; Word Usage.

1. As used in this Part, the following terms shall have the meanings indicated:

Accessory structure—a detached structure located on or partially on any premises which is not used or not intended to be used for living or sleeping by human occupants.

Approved—approved by the local or State authority having such administrative authority.

Appurtenance---An accessory part of the main structure; (rain gutters, down spouts, shutters, awnings, etc.)

Ashes—the residue from the burning of combustible material.

Chimney—a vertical masonry shaft of reinforced concrete, or other approved noncombustible, heat-resisting material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gas fuel.

Code Enforcement Officer—the person appointed to the office created by *Ord.* 9712-8, 12/10/1997 [Chapter 1, Part 2C of the Code of the Borough of Red Lion], or the office itself.

Commercial Property- Any property which contains any non-residential use as set forth in Section 27-305.2 and 27-305.3 of the Red Lion Borough Zoning Ordinance.

Garbage—the animal and vegetable waste resulting from the handling, preparation, cooking, serving, and non-consumption of food.

Industrial Property- Any property which contains any non-residential use as set forth in Section 27-307.2 and 27-307.3 of the Red Lion Borough Zoning Ordinance.

Meaning of certain words—whenever the words "premises," "structure" are used in this Part, they shall be construed as though they were followed by the words "or any part thereof."

Occupant—any person who has charge, care, control, or management of a building or part thereof.

Owner (1) Any person who, along or jointly or severally with others:

(a) Shall have legal title to any commercial or industrial property, with or without accompanying actual possession thereof.

(b) Shall have charge, care, or control of any commercial or industrial property as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner.

(2) Any such person thus representing the actual owner shall be bound to comply with the provisions of this Part and of rules and regulations adopted pursuant thereto to the same extent as if he were the owner.

Person—includes any individual, firm, corporation, association, or partnership.

Plumbing—includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

Premises—a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any commercial or industrial structure, and includes any such building, accessory structure or other structure thereon.

Refuse—all putrescible and non-putrescible solids (except body wastes), including garbage, rubbish, ashes, and dead animals.

Rubbish—non-putrescible solid wastes (excluding ashes) consisting of either:

(1) Combustible wastes such as paper, cardboard, plastic containers, yard clippings, and wood.

(2) Noncombustible wastes such as tin cans, glass, and crockery.

Safety—the condition of being free from danger and hazards which may cause accidents or disease.

Space heater—a self-contained, heating appliance of either the circulating type or the radiant type and intended primarily to heat only one room.

Supplied—paid for, furnished by, provided by, or under *the* control of the owner or operator.

2. Words used in the singular include the plural, and the plural the singular; the masculine gender includes the feminine and the feminine *the* masculine.

§5A-103. Responsibilities of Owners and Occupants.

1. No owner or other person shall occupy or let to another person any commercial or industrial property unless it and the premises are clean, sanitary, fit for human occupancy and comply with all applicable legal requirements of the Commonwealth of Pennsylvania and the Borough of Red Lion. Every occupant of a commercial or industrial property shall thereafter maintain in a clean and sanitary condition that part of those parts of the premises thereof that he occupies and controls.

2. Every owner of a commercial or industrial property containing two or more units shall maintain in a clean and sanitary condition the shared or public areas of the property and premises thereof.

3. Every occupant of a commercial or industrial property shall store and dispose of all his rubbish in a clean, sanitary, and safe manner.

4. Every occupant of a commercial or industrial property shall store and dispose of all his garbage and any other organic waste which might provide food for insects and/or rodents, in a clean, sanitary, and safe manner, and if a container is used for storage pending collection, it shall be rodent-proof; insect-proof, and watertight.

5. Every owner or occupant of a commercial or industrial property shall keep all plumbing fixtures therein in a clean, sanitary and operable condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

6. No owner or occupant shall install, operate, or use an unvented space heater employing a flame.

§5A-104. Sanitary Maintenance of Structural Elements.

1. No person shall occupy as owner or occupant or let to another for occupancy any commercial or industrial property which does not comply with the following requirements:

A. Every foundation, roof, and exterior wall, door, skylight, and window shall be reasonably weather-tight, watertight, and damp-free and shall be kept in sound condition and good repair. Floors, interior walls and ceilings shall be sound and in good repair. All exterior wood and metal surfaces shall be protected from the elements and decay by paint or other protective covering or treatment using nontoxic materials where readily accessible to children. Every premises shall be graded, drained, free of standing water and maintained in a clean, sanitary and safe conditions.

B. Every window, exterior door, and basement hatchway or similar devices shall be kept rodent-proof and reasonably watertight and weather-tight and shall be kept in working condition and good repair.

C. Every commercial or industrial building or accessory structure and the premises on which located shall be maintained so as to prevent and eliminate rodent harborage.

D. All fences provided by the owner or agent on the premises and/or all fences erected or caused to be erected by an occupant shall be constructed of manufactured metal fencing material, wood, masonry, or other inert material. Such fences shall be maintained in good condition, uniform in height throughout, and any wood materials shall be protected against decay by use of paint or other preservative. Such fences shall be maintained in good repair. The permissible height and other characteristics of all fences shall conform to the appropriate statutes, ordinances, and regulations of the Borough of Red Lion and Commonwealth of Pennsylvania.

E. Accessory structures present or provided by the owner, agent, or tenant-occupant on the premises of commercial or industrial property shall be structurally sound, be designed to prevent rodent harborage and be maintained in good repair and free of vermin by the owner, agent, or occupant or such structures shall be removed from the premises. The exterior of such structures shall be made weather-resistant through the use of decay-resistant materials or the use of paint or other preservatives.

F. Every foundation, roof, floor, exterior, and interior wall, ceiling, inside and outside stair, every porch and every appurtenance thereto shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon and shall be kept in sound condition and good repair. Every inside and outside stair or step shall have uniform risers and treads.

G. Every plumbing fixture and water and waste pipe shall be properly installed in accordance with Red Lion Borough ordinances and maintained in good sanitary working condition.

H. Every plumbing fixture and pipe, every chimney, flue, and smoke pipe and every other facility, piece of equipment or utility which is present in a commercial or industrial building or which is required under this Part shall be constructed, installed and maintained in conformance with the appropriate statutes, ordinances, and regulations of the Borough of Red Lion and Commonwealth of Pennsylvania.

§5A-105. Right of Entry for Inspections, Notice of Violation

1. The Code Enforcement Officer is authorized to enter the structure or premise during normal business hours to inspect subject to constitutional restrictions on unreasonable search and seizure. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

2. The Code Enforcement Officer is hereby authorized and directed to make inspections, pursuant to one or more of the plans for inspection authorized by this Chapter, or in response to a complaint that an alleged violation of the provisions of this Part or applicable rules or regulations pursuant thereto has been committed or when the Code Enforcement Officer has valid reason to believe that a violation of the Part of any borough ordinance, rule, regulation or code pursuant thereto has been committed.

3. The Code Enforcement Office is hereby authorized to enter and inspect during normal business hours, all buildings and rooms subject to the provisions of this Part for the purpose of determining whether there is compliance with its provisions.

4. Whenever the Code Enforcement Officer determines that any commercial or industrial property or the premises surrounding any of these fails to meet the requirements set forth in this Part or in applicable rules and regulations issued pursuant thereto, he shall issue a notice setting forth the alleged failures and advising the owner or occupant or other person in charge that such failures must be corrected. This notice shall:

A. Be in writing.

B. Set forth the alleged violations of this Part or of applicable rules and regulations issued pursuant thereto.

C. Describe the building, structure or premises where the violations are alleged to exist or to have been committed.

D. Provide a reasonable time, not to exceed 30 days, for the correction of any violation alleged.

E. Be served upon the owner or occupant or other person in charge of the building, structure or premises personally, or by certified mail, return receipt requested, addressed to the last known place of residence of the owner or occupant or other person in charge. If one or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such person or persons by posting a notice in or about the building, structure or premises described in the notice or by causing such notice to be published in a newspaper for 3 consecutive days.

5. At the end of the period of time allowed for the correction of any violation alleged, the Code Enforcement Officer shall re-inspect the building, structure or premises described in the notice.

6. Appeal to Borough Council. Any person aggrieved by the decision of the Code Enforcement Officer:

A. May request and shall then be granted a hearing before the Borough Council; provided, he files with the Borough Council within 10 days after notice of the Code Enforcement Officer's decision, a written application requesting such a hearing and setting forth a brief statement of the grounds therefor, and a fee in such amount as may be set forth by Borough Council. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause. After such hearing, the Borough Council shall sustain, modify or overrule the action of the Code Enforcement Officer. If the Borough Council shall modify or overrule the action of the Code Enforcement Officer, the fee shall be refunded to the applicant.

B. In lieu of A., any person aggrieved by the decision of the Code Enforcement Officer may request an appeal to a 3rd party arbitrator, who shall be agreed upon by both the person aggrieved and the Borough, in which case costs of the 3rd party arbitrator shall be split evenly by both the person aggrieved and the Borough. After such hearing, the 3rd party arbitrator shall sustain, modify or overrule the action of the Code Enforcement Officer.

§5A-106. Violations and Penalties.

Any owner or occupant or other person in charge of a commercial or industrial property who has received notice of a violation of this Part and fails to take the necessary corrective action shall be liable, upon conviction thereof, shall be sentenced to a fine of not more than $1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

§5A-107. Conflict with Other Provisions.

In any case where a provision of this Part is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of the Borough of Red Lion existing on the effective date of this Part, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this Part is found to be in conflict with a provision of any other ordinance or code of this Borough of Red Lion existing on the effective date of this Part which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Part shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Part.

SECTION 2. EFFECTIVE DATE. This Ordinance shall become effective immediately upon enactment and approval.

Enacted and Ordained by the Council of the Borough of Red Lion, County of York, Pennsylvania, this 14th day of October, 2019.

RED LION BOROUGH COUNCIL

Attest:

Secretary

BY: _____
President

APPROVED/DISAPPROVED this ____ day of _____, 2019.

_____
Mayor