

Chapter 5

Code Enforcement

Part 1

Uniform Construction Code

A. Implementation

- §5-101. Administer and Enforce
- §5-102. Adoption and Incorporation
- §5-103. Administration and Enforcement
- §5-104. Board of Appeals Established
- §5-105. Prior Ordinances
- §5-106. Fees

B. Uncertified Buildings

- §5-111. Borough Elects to Enforce Provisions Concerning Uncertified Buildings
- §5-112. Definition of “Uncertified Building.”
- §5-113. Requirements for Uncertified Buildings
- §5-114. Violations and Penalties

Part 2

Contractor Licensing

- §5-201. Definitions
- §5-202. License Required
- §5-203. Requirements for Issuance or Renewal of Permit
- §5-204. Exceptions and Exemptions
- §5-205. Issuance or Denial of License
- §5-206. Revocation of License; Disclaimer or Liability
- §5-207. Prohibited Acts
- §5-208. Violations and Penalties

Part 3

Wood/Coal Burning Stoves

- §5-301. Permits
- §5-302. Installation
- §5-303. Chimney Connection
- §5-304. Chimneys and Fireplaces
- §5-305. Penalties

Part 4

NFPA Life Safety Code

- §5-401. Adoption of Life Safety Code

- §5-402. Establishment and Duties of Board of Fire Prevention
- §5-403. Sprinklers
- §5-404. Permits Required as to Fire Code Status
- §5-405. Responsibility for Installation and Maintenance
- §5-406. Penalty for Violation

Part 5
Uniform Fire Protection Code

- §5-501. Adoption of Uniform Fire Protection Code

Part 6
Property Maintenance Code

- §5-601. Adoption
- §5-602. Amendments
- §5-603. Savings Clause

Part 1**Uniform Construction Code****A. Implementation****§5-101. Administer and Enforce.**

The Borough of Nesquehoning hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§7210.101 *et seq.*, as amended from time to time, and its regulations.

(*Ord. 2004-2, 5/26/2004, §1*)

§5-102. Adoption and Incorporation.

The Uniform Construction Code, contained in 34 Pa.Code, Chapters 401–405, as amended from time to time, is hereby adopted and incorporated herein by reference as the Borough building code of this Borough.

(*Ord. 2004-2, 5/26/2004, §2*)

§5-103. Administration and Enforcement.

Administration and enforcement of the code within this Borough shall be undertaken in any of the following ways as determined by the Council of this Borough from time to time by resolution:

A. By the designation of an employee of the Borough to serve as the Borough code official to act on behalf of the Borough.

B. By the retention of one or more construction code officials or third party agencies to act on behalf of the Borough.

C. By agreement with one or more other municipalities for the joint administration and enforcement of this Part through an intermunicipal agreement.

D. By entering into a contract with another municipality for the administration and enforcement of this Part on behalf of this Borough.

E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections, and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

(*Ord. 2004-2, 5/26/2004, §3*)

§5-104. Board of Appeals Established.

A Board of Appeals shall be established by resolution of the Borough Council of this Borough in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

(*Ord. 2004-2, 5/26/2004, §4*)

§5-105. Prior Ordinances.

1. All building code ordinances or portions of ordinances which were adopted by this Borough on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.

2. All building code ordinances or portions of ordinances which are in effect as of the effective date of this Part and whose requirements are less than the minimum requirements are hereby amended to conform with the comparable provisions of the Code.

3. All relevant ordinances, regulations, and policies of this Borough not governed by the Code shall remain in full force and effect.

(*Ord. 2004-2, 5/26/2004, §5*)

§5-106. Fees.

Fees assessable by the Borough for the administration and enforcement undertaken pursuant to this Part and the code shall be established by the Borough Council by resolution from time to time.

(*Ord. 2004-2, 5/26/2004, §6*)

B. Uncertified Buildings**§5-111. Borough Elects to Enforce Provisions Concerning Uncertified Buildings.**

The Borough of Nesquehoning hereby elects to adopt, administer and enforce the provisions contained in the Pennsylvania Construction Code Act, Act 45 of 1999, specifically pertaining to “uncertified buildings,” 35 Pa.C.S.A. §7210.902(b) and the regulations made pursuant thereto.

(Ord. 2009-2, 6/24/2009, Art. 1)

§5-112. Definition of “Uncertified Building.”

An uncertified building is defined as an existing building which, prior to April 9, 2004, was not approved for use and occupancy by the Pennsylvania Department of Labor and Industry. The term does not include a residential building.

(Ord. 2009-2, 6/24/2009, Art. 2)

§5-113. Requirements for Uncertified Buildings.

Uncertified buildings shall meet the following requirements:

A. Maximum story height, minimum allowable construction type based on floor area, vertical opening and shaft protection requirements, means of egress requirements, pertaining to minimum number of exits, maximum travel distances to exits, means of egress illumination, minimum egress widths and heights for exit doors, exit stairs, exit ramps and exit corridors requirements under the *International Building Code*.

B. Fire safety requirements in the *International Building Code* for fire alarms, fire extinguishers, heat and smoke detectors, automatic sprinkler systems and occupancy and incidental use separations. The following also applies:

(1) If construction began on a building before May 19, 1984, the installation of automatic sprinkler systems is not required.

(2) If construction began on a building after May 19, 1984, automatic sprinklers are only required if the building is classified in use groups E (educational), H (high-hazard), I (institutional), or R.-1 or R-2 (residential) or if the building has occupied floors more than 75 feet above the lowest level of fire department access. However, buildings in use groups R-1 and R-2 which do not have occupied floors more than 75 feet above lowest level of fire department access may, instead of installing automatic sprinkler systems, install hard-wired interconnected heat and smoke detectors in all rooms and spaces, whether they are occupied or unoccupied.

(3) If construction of a building began after May 18, 1984, automatic sprinkler installation shall be completed within 5 years of December 22, 2005, or any certificate of occupancy issued shall be invalid.

C. Accessibility requirements are applicable as follows:

(1) If construction of an uncertified building began before September 1, 1965, no accessibility requirements shall be imposed by the Borough.

(2) If construction of a building began after August 31, 1965, and before

February 18, 1989, and if the building is a State-owned building, a restaurant or a retail commercial establishment, the building shall have at least one accessible main entrance, an accessible route from the accessible entrance to any public spaces on the same level as the accessible entrance and, if toilet rooms are provided, the building shall have at least one toilet room for each sex or a unisex toilet room complying with the accessibility requirements of the *International Building Code* shall be met.

(3) If construction of the building began after February 17, 1989, all accessibility requirements of the *International Building Code* shall be met.

D. Structural requirements shall not be imposed unless the Borough determines that the building has defects that are defined as dangerous in §202 of the *International Building Code*. If the building is dangerous, the Borough may impose only those requirements minimally necessary to remove danger to the building's occupants.

(Ord. 2009-2, 6/24/2009, Art. 3)

§5-114. Violations and Penalties.

Any individual firm, corporation or entity who violates, causes or permits the violation of any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. In addition to any other remedy available under law, the Borough may enforce this Part by an action in equity. The initial determination of violation and the service of notice of violation are hereby delegated to the Code Official/Building Inspector, the Zoning Officer, the Code Enforcement Officer and their designees and to any other officer or agent that the Borough Council shall deem appropriate.

(Ord. 2009-2, 6/24/2009, Art. 4; as amended by Ord. 2013-1, 6/26/2013)

Part 2**Contractor Licensing****§5-201. Definitions.**

As used in this Part, the following terms shall have the meaning indicated unless a different meaning already appears from the context:

Contractor—any person, partnership, association, firm, or corporation who provides labor and/or materials necessary to construct, repair, replace, or improve any structure or utility line of any real estate located within the Borough limits. This shall include, but not be limited to, a general contractor, electrical contractor, plumbing contractor, masonry contractor, carpenter, landscaping contractor, excavating contractor, or demolition contractor. A property owner who works exclusively within his or her boundary limits is not to be construed as a contractor within the meaning of this Part.

Person—any natural personal, partnership, association, corporation, or other legal entity.

(Ord. 2008-5, 6/25/2008, §1)

§5-202. License Required.

1. No person shall operate as a contractor within the Borough of Nesquehoning without first having obtained from the Building Code Enforcement Officer, or other designated person, a permit, for which a fee shall be charged for the use of the Borough of Nesquehoning. Said fee is to be in such amounts as may be established from time to time by resolution of the Nesquehoning Borough Council.

2. The permit shall be valid for a period of 1 year from the date of issuance.

(Ord. 2008-5, 6/25/2008, §2)

§5-203. Requirements for Issuance or Renewal of Permit.

1. All applications for issuance of a permit for a license to act as a contractor shall be made on a form as supplied by the Building Code Enforcement Officer or other designated official.

2. All applications must be accompanied by a certificate of workers' compensation insurance specifying the name of the workers' compensation insurance company, the number of employees of the contractor and the Federal and State employer identification number.

A. If a contractor or person signs an affidavit stating that he has no employees and is not required to carry workers' compensation insurance, the Borough of Nesquehoning may issue the permit stating the contractor's Federal or State employer identification number, and a notation that the contractor has no other employees and does not carry workers' compensation insurance, and that the contractor is not permitted to employ any individuals or companies to perform work pursuant to his license.

3. A contractor shall also be required to maintain property damage, bodily injury,

and products liability insurance. Blasting and demolition insurance shall be required for blasting and demolition contractors.

4. The amount of the required insurance shall be as set by the Building Code Enforcement Officer or other designated official.

5. If the above insurance is not supplied as required then there will be no building permits issued to the contractor who fails to comply herewith.

(*Ord. 2008-5, 6/25/2008, §3*)

§5-204. Exceptions and Exemptions.

1. The provisions of this Part shall not apply to the official transactions of my authorized representative of the government of the United States, any political subdivision of the Commonwealth or an agency or instrumentality of the foregoing governments.

2. No contractor's license shall be required by any person when acting in a particular capacity or particular type of transaction as follows:

A. A person who performs labor or services for a contractor for wages or salary.

B. A person who is required by other State or local law to attain standards of competency or experience and who must obtain licensing under such state or local law, as a prerequisite to engaging in a craft or profession, and who is acting exclusively within the scope of such craft or profession for which he is currently licensed pursuant to such other law.

C. *Painter.* No license shall be required by any individual engaged in painting of any house or building in the Borough.

3. This Part shall not apply to a "contractor" performing "home improvements" as those terms are defined in §2 of the Home Improvement Consumer Protection Act, 73 P.S. §517.2. [*Ord. 2013-1*]

(*Ord. 2008-5, 6/25/2008, §4; as amended by Ord. 2013-1, 6/26/2013*)

§5-205. Issuance or Denial of License.

When an application has been filed with the Building Official in proper form, the Building Official must, within a period of 30 days from the date following the date the application is received, issue or refuse to issue the appropriate contractor's license to the applicant. If the issuance of a license is denied, the Building Official shall mail to the unsuccessful applicant a written statement setting forth the reason or reasons for the denial, within the aforesaid 30-day period and a refund of the application fee. The rejected applicant shall be entitled to request a hearing from the Borough Council within 30 days to appeal the Building Official's decision.

(*Ord. 2008-5, 6/25/2008, §5*)

§5-206. Revocation of License; Disclaimer or Liability.

1. The Building Official shall revoke any license issued under the provisions of this Part under the following circumstances. The applicant who has his license revoked shall be entitled to request a hearing from the Borough Council within 30 days to

appeal the Building Official's revocation:

A. If the licensee falsely answered any question or questions contained on an application for licensing or renewal of licensing previously submitted to the Building Official.

B. Failure of the licensee to maintain, during the license year, the policies of insurance required under the provisions of this Part.

C. If the licensee violates any of the terms or provisions of the ordinances of the Borough of Nesquehoning or any terms or provisions of this Part.

D. If the licensee violates any condition or requirement of a building permit, sewer construction permit, or highway permit issued by the Borough.

E. If the license willfully deviates from or disregards any plans or specifications for any contracting job in any substantial respect without first obtaining the consent of the owner in writing to any such change and without first notifying the Building Official of any such changes.

F. If the licensee does any business through any person who is subject to the licensing requirement of this Part and who is not licensed as required by this Part.

G. If the licensee conducts a contractor's business in the Borough under any name other than that under which he is licensed.

H. If the license fails to comply with an order, demand, or requirement lawfully made by the Building Official under the authority of this Part or any other Borough ordinance.

2. The Borough of Nesquehoning, by the virtue of granting a license to this contractor, does not warrant or make representation regarding the quality of any of the workmanship performed by said contractor. The Borough does not assume any liability for the quality of this contractor's workmanship or lack thereof. The purpose of this licensing requirement is to guarantee that the contractor has adequate insurance and has not been convicted of any prior fraudulent activities. Furthermore, the Borough will not be held liable for any failure on its part to investigate any of the facts that may be falsely stated in any application presented by any contractor receiving a license by the Borough.

(Ord. 2008-5, 6/25/2008, §6)

§5-207. Prohibited Acts.

In addition to all other acts prohibited by the terms of this Part, those acts warranting revocation of a license under §5-206 shall be prohibited acts and subject the violators to the fine under §5-208.

(Ord. 2008-5, 6/25/2008, §6)

§5-208. Violations and Penalties.

1. In addition to refusal or revocation of a license as provided under this Part, any person, defined in this Part, or any officer, agency, servant, or employee thereof, who shall fail, neglect, or refuse to comply with any of the terms or provisions of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay 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 90 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. The fine or penalty imposed by this Section shall be in addition to any other penalty imposed by this Part. [*Ord. 2013-1*]

2. After notice of said violation is given by the Borough of Nesquehoning, each day upon which this Part or any part thereof continues to be violated, shall be deemed a new violation and each day the same is continued shall be deemed a separate offense and punishable as such.

(*Ord. 2008-5, 6/25/2008, §7; as amended by Ord. 2013-1, 6/26/2013*)

Part 3**Wood/Coal Burning Stoves****§5-301. Permits.**

No owner, agent, or tenant shall commence with the installation of any chimney, fireplace, stovepipe, wood- or coal-burning stove or appliance unless first obtaining a permit from the Fire Commissioner of the Borough of Nesquehoning. The fee for such permit shall be in an amount as established from time to time by resolution of the Borough Council, including the inspections. Following completion of the installation and before placing the stove, appliance, chimney, or fireplace into use, the permittee shall notify the Fire Commissioner, who shall forthwith inspect the installation to determine that it is in compliance with the requirements of this Part. If found to be in compliance with this Part, the Fire Commissioner shall countersign the permit and note the date of his inspection. If found to be in noncompliance, the Fire Commissioner shall notify the permittee, in writing, of the nature of the noncompliance, and the stove, chimney, fireplace, or appliance shall not be placed into use until the condition has been corrected and reinspected by the Fire Commissioner and the permit countersigned by him. The fee for a permit involving the replacement of a chimney, fireplace, stovepipe, wood- or coal-burning stove or appliance of reasonably similar design, where the original installation had been previously approved, shall be in an amount as established from time to time by resolution of the Borough Council, including inspections.

(*Ord. 80-2*, 12/7/1980, §1; as amended by *Ord. 81-2*, 3/19/1981, §1; by *Ord. 95-1*, 2/8/1995, §152-1; and by *Ord. 2013-1*, 6/26/2013)

§5-302. Installation.

All wood- or coal-burning stoves or appliances shall be at least 36 inches from all combustible materials. Where clearance is less than 36 inches but more than 18 inches, the combustible surface shall be protected by ¼-inch asbestos millboard spaced 1 inch or more from the combustible surface. Adequate space shall be provided to permit air circulation. If clearance is less than 18 inches but more than 12 inches, the combustible wall shall be protected with a 4-inch brick veneer wall extending 2 feet above and 2 feet beyond each side. All other installation shall be as follows:

A. All wood- or coal-burning stoves or appliances that have circulating devices shall be at least 24 inches from a combustible surface unless the appliance has a rating for lesser distance from combustible surface.

B. If the distance of any circulating wood- or coal-burning stove or appliance is 12 inches to 24 inches from the noncombustible surface, the surface shall be protected by ¼-inch asbestos millboard spaced 1 inch or more from the walls, with adequate 1-inch spacing from the floor to permit air circulation between wall and shield.

C. If the circulating wood or coal burning stove or appliance is 8 inches to 12 inches from the noncombustible surface, the surface shall be protected by ¼-inch asbestos millboard covered with 28-gauge metal spaced 1 inch or more from the wall and floor to permit air circulation.

D. Noncombustible floor material shall extend at least 18 inches beyond the opening from which ashes are removed, and at least 6 inches beyond the sides and rear.

E. Where stove legs are at least 18 inches above a combustible surface, a 24-gauge sheet metal shall be used.

F. Where stove legs are between 6 and 18 inches above a combustible surface, a 24-gauge sheet metal over ¼-inch layer of asbestos millboard or other approved noncombustible material shall be used.

G. Where stove legs are 6 inches or less above a combustible surface, a four-inch hollow masonry pad should be laid or an approved noncombustible surface of 1-inch thickness shall be used.

(Ord. 80-2, 12/7/1980, §2)

§5-303. Chimney Connection.

1. All stove pipes shall be equal to or larger than the appliance flue connector.
2. All connector pipe shall be of a minimum of 24-gauge black pipe or heavier.
3. All connector pipe shall rise from the stove toward the chimney at least ¼-inch per foot or more.

4. The crimped end of chimney connector pipe shall point toward the stove. Adapters may be used to permit the crimped end to point toward the stove.

5. Single-wall connector pipe shall not pass through the floor or wall. However, when necessary, a connector may pass through a wall under the following conditions:

A. Where a ventilated-type metal thimble is used and is 12 inches greater in diameter than the chimney connector.

B. Where a metal or burned fireclay thimble is used and the thimble is surrounded on all sides by not less than 8 inches of brickwork or equivalent fireproofing material.

C. When all combustible material is removed for a sufficient distance to provide not less than 18 inches clearance on all sides of the connector. Any materials used to close this opening must be noncombustible insulating material.

D. When the section of the connector pipe passing through the combustible material is replaced by a properly installed section of factory-built insulated Class A pipe for solid fuels.

E. All stovepipe shall be a minimum of 18 inches from a combustible surface.

F. If stovepipe is 12 to 18 inches from combustible surface, the surface shall be covered with ¼-inch asbestos millboard spaced 1 inch from the wall or ceiling, used as a shield.

G. If stovepipe is 9 to 12 inches from combustible surface, the surface shall be covered with ¼-inch asbestos millboard with a 28-gauge sheet metal spaced 1 inch from the wall or ceiling.

(Ord. 80-2, 12/7/1980, §3)

§5-304. Chimneys and Fireplaces.

1. Except as herein provided, all chimneys in every building hereafter erected and all chimneys hereafter altered or rebuilt shall be constructed of brick, stone, or reinforced concrete or UL-listed Class A chimney. No masonry chimneys shall have walls less than 4 inches in thickness, and all chimneys shall be lined on the inside with fireclay chimney tile set in Portland cement mortar. The lining shall be continuous from the bottom of the flue to its extreme height. No chimney shall be corbeled out more than 6 inches from a brick wall, and such corbeling shall consist of not less than five courses of brick, unless the chimney requires special construction, and then any specially constructed chimney shall not be corbeled out to such extent that the center of gravity of the chimney would be located so as to endanger the structure. Each heating device shall have a separate chimney with flue liner or an approved Class A chimney.

2. All chimneys shall project at least 3 feet above the point of contact with a flat roof or 2 feet above any roof surface within 10 feet horizontally of the chimney. Portland cement may be used in the construction of chimneys with the addition of not more than 10 percent by volume of hydrated lime. No chimney in any building shall have wooded supports of any kind. Supports shall be noncombustible and shall rest upon the ground or foundation walls. Concrete footings under new chimneys shall be as hereinbefore specified for concrete footings under foundation walls. All chimneys shall be thoroughly cleaned before any heating device is installed. All chimneys which are dangerous from any cause shall be repaired and made safe or taken down.

3. The fireback of every fireplace hereafter erected shall not be less than 8 inches in thickness of solid brickwork, or air cell construction, or less than 12 inches of stone lined with fire brick. When a grate is set in a fireplace, a lining of fire brick at least 2 inches in thickness shall be added to the fireback, or soapstone, fireclay, or cast iron may be used, if solidly backed with brick or concrete. All smoke pipes shall enter the chimney through a flue thimble or its equivalent such that the construction shall make a fire-tight joint with the chimney tile flue liner.

4. All flue holes when not in use shall be closed with tight-fitting metal covers. No wooden beams or joists shall be placed within 1 inch of the outside face of the chimney or flue, whether the same are for smoke, air or any purpose, except for hot air flues for heating purposes. No woodwork shall be within 4 inches of the back wall of any fireplace except if a chimney is built such that the thickness from the flue line is 8 inches or more. Necessary woodwork may be placed against the chimney by using asbestos sheeting between and around the wood so placed under the approval of the Fire Commissioner.

(*Ord. 80-2, 12/7/1980, §4; as amended by Ord. 95-1, 2/8/1995, §152-4*)

§5-305. Penalties.

Any person violating any of the provisions of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay 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 90 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.

(*Ord. 80-2, 12/7/1980, §5; as amended by Ord. 95-1, 2/8/1995, §152-5; and by Ord. 2013-*

1, 6/26/2013)

Part 4**NFPA Life Safety Code****§5-401. Adoption of Life Safety Code.**

Portions of a certain document, one copy of which is on file in the Borough office of the Borough of Nesquehoning, being marked and designated as the *NFPA Life Safety Code*, 2009, as amended, and any subsequent revisions thereto, specifically §§101, 291, 70 and 31, as published by the Committee on Safety to Life are hereby adopted by the Borough of Nesquehoning, Commonwealth of Pennsylvania, for the control of buildings and structures as herein provided; and, each and all of the regulations, provisions, penalties, conditions and terms of the aforementioned sections of said *NFPA Life Safety Code* are hereby referred to, adopted and made part hereof, as if fully set out in this Part with the additions, insertions, deletions and changes, if any, prescribed hereafter. (*Ord. 96-2, 2/28/1996, §1; as amended by Ord. 2010-2, 1/24/2010*)

§5-402. Establishment and Duties of Board of Fire Prevention.

1. The *Life Safety Code* shall be enforced by the Board of Fire Prevention of the Borough of Nesquehoning, which is hereby established.

2. Members of the Board of Fire Prevention shall include the Fire Chiefs, Code Enforcement Officer, Zoning Officer and the Chairman of the Fire and Ambulance Committee of Borough Council.

3. The Board of Fire Prevention may recommend to the Borough Council, for appointment, such additional members and inspections as may be necessary, from time to time. The Board of Fire Prevention shall coordinate inspection and enforcement of this Part in the Borough of Nesquehoning.

4. The Board of Fire Prevention shall be permitted access to all buildings or parts of buildings under construction and/or renovation for the purpose of inspecting the structure for compliance with the provisions of this Part.

5. The Board of Fire Prevention shall have the power to modify any of the provisions of the Life Safety Code upon application, in writing, by the owner or lessee or his duly authorized agent when there are practical difficulties in the way of carrying out the strict letter of the Code; provided, however, that the spirit of the Code shall be observed, public safety secured and substantial justice done. The particulars of such modification, when granted or allowed, shall be entered upon the records of the Board and a signed copy shall be furnished to the applicant.

6. Whenever the Board of Fire Prevention shall disapprove an application or refuse to approve a permit applied for or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Board of Fire Prevention to the Borough Council within 30 days from the date of the decision appealed. Upon receipt of such an appeal, the Borough Council will schedule a public hearing to be held within 15 days of receipt of the appeal at which time the applicant may present his position to the Council and at which time the Board of Fire Prevention or its duly authorized representative will be provided an opportunity to present reasons

for its decision to the Council. The Borough Council is hereby empowered to affirm the decision of the Board of Fire Prevention or to modify it in any respect it shall deem appropriate, after giving due consideration to the particular circumstances of the situation.

(*Ord. 96-2, 2/28/1996, §2; as amended by Ord. 2009-4, 8/26/2009*)

§5-403. Sprinklers.

1. Automatic sprinklers and standpipes will be required in newly constructed commercial buildings with floor space greater than or equal to 1,500 square feet or in multi-level buildings. [*Ord. 99-1*]

2. Automatic sprinklers and standpipes for existing commercial buildings are required when the floor space is increased by 40 percent and/or increases the floor space greater than or equal to 1,500 square feet. [*Ord. 99-1*]

3. Residential noncommercial buildings will be exempt from requiring the installation of sprinklers and standpipes provided that they are not used for the following:

- A. Hospitals.
- B. Nursing home.
- C. Limited care facilities.
- D. Detention and correction facilities.
- E. Assembly halls.
- F. Storage facility.
- G. Boarding home.

[*Ord. 99-1*]

4. The following building occupancy types will not be exempt from the provisions of this Part under any circumstance:

- A. Multi-family units.
- B. Hospitals.
- C. Nursing homes.
- D. Limited care facilities.
- E. Detention and correctional facilities.
- F. Assembly halls.
- G. Storage facilities.
- H. Hotels and motels.
- I. Mercantile buildings.

5. All building use types will be as defined by the Nesquehoning Borough Zoning Ordinance [Chapter 27].

6. All standpipes and fire department connections will require New York Corporation female threads for discharge purposes with a minimum piping size of 3-inch diameter pipe and 5-inch store capped connection that is gated with a 45-degree swivel connector attached. [*Ord. 98-4*]

(*Ord. 96-2, 2/28/1996, §3; as amended by Ord. 98-2, 10/28/1998; by Ord. 98-4, 12/16/1998; and by Ord. 99-1, 5/26/1999*)

§5-404. Permits Required as to Fire Code Status.

1. Owners, lessees, or their duly authorized agents when engaging in new construction or substantial renovation as herein above described shall make application to the Fire Prevention Board for a permit, as a pre-condition to a certificate of occupancy, which permit indicates that the subject property under construction or renovation is in compliance with this Part.

2. Fees for the permit shall be as set by the Borough Council from time to time by resolution.

(*Ord. 96-2, 2/28/1996, §4*)

§5-405. Responsibility for Installation and Maintenance.

It shall be the responsibility of the owner or lessee of each building or structure being newly constructed and/or substantially renovated as herein above described to comply with this Part. It shall be unlawful for any owner or lessee to fail or refuse to install fire prevention devices as required hereunder or fail to maintain such fire prevention devices in good working order.

(*Ord. 96-2, 2/28/1996, §5*)

§5-406. Penalty for Violation.

Any person, firm, or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$25 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 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.

(*Ord. 96-2, 2/28/1996, §7; as amended by Ord. 2013-1, 6/26/2013*)

Part 5**Uniform Fire Protection Code****§5-501. Adoption of Uniform Fire Protection Code.**

Portions of a certain document, one copy of which is on file in the Borough office of the Borough of Nesquehoning, being marked and designated as the *Uniform Fire Protection Code*, 2006, as amended, along with any subsequent revisions or amendments thereto is hereby adopted by the Borough of Nesquehoning, Commonwealth of Pennsylvania, for the control of buildings and structures as herein provided; and, each and all of the regulations, provisions, penalties, conditions and terms of the aforementioned Sections of said Uniform Fire Protection Code of 2006 are hereby referred to, adopted and made part hereof, as if fully set out in this Part with the additions, insertions, deletions and changes, if any, prescribed hereafter.

(*Ord. 2010-1, 1/27/2010, §1*)

Part 6**Property Maintenance Code****§5-601. Adoption.**

A certain document, one copy of which is on file in the Borough office of the Borough of Nesquehoning, being marked and designated as the International Property Maintenance Code, 2009 Edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Borough of Nesquehoning, in the Commonwealth of Pennsylvania, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor, and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Borough of Nesquehoning are hereby referred to, adopted, and made a part hereof, as if fully set out in this Part, with the additions, insertions, deletions and changes, if any, prescribed in §5-602 of this Part.

(*Ord. 2011-6, 11/16/2011, §1*)

§5-602. Amendments.

The following sections are hereby revised:

- A. Section 101.1. Insert "Borough of Nesquehoning."
- B. Section 103.5. Insert "Schedule as contained on Exhibit 'A'¹ attached hereto and made a part hereof and as may be modified by Borough Council from time to time by resolution."
- C. Section 112.4. Insert "Not less than \$100 nor more than \$600."
- D. Section 302.4. Insert "6 inches."
- E. Section 304.14. Insert the dates "from June 1 to September 1."
- F. Section 602.3. Insert the dates "from September 1 to June 30."
- G. Section 602.4. Insert the dates "from September 1 to June 30."

(*Ord. 2011-6, 11/16/2011, §2*)

§5-603. Savings Clause.

Nothing in this Part or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Part, nor shall any just legal right or remedy of any character be lost, impaired or affected by this Part.

¹Editor's Note: Exhibit "A" is on file in the Borough office.

(*Ord. 2011-6, 11/16/2011, §3*)