

MAIN TOWNSHIP
ORDINANCE NO. 4 OF 2016

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF MAIN TOWNSHIP,
COLUMBIA COUNTY, PENNSYLVANIA, REGULATING THE CREATION,
APPOINTMENT, ORGANIZATION, JURISDICTION, POWERS AND DUTIES OF THE
UNIFORM CONSTRUCTION CODE APPEALS BOARD.

The Board of Supervisors of Main Township, Columbia County, Pennsylvania, enacts and ordains as follows:

**SECTION 1. CREATION, APPOINTMENT, REMOVAL, VACANCIES,
COMPENSATION, ORGANIZATION, MEETINGS AND MINUTES AND RECORDS**

A. CREATION:

The Board of Supervisors of Main Township (the "Supervisors") hereby creates a Uniform Construction Code Appeals Board, herein referred to as the Board, consisting of residents of Main Township appointed by the Supervisors, which shall perform all the duties and have all the powers prescribed as herein provided. Should the Supervisors not be able to find persons to serve on the Board who meet the minimum qualifications in accordance with the Uniform Construction Code, hereinafter "UCC", the Supervisors may fill positions on the Board with qualified individuals who reside outside of Main Township.

B. APPOINTMENT AND QUALIFICATIONS:

The Supervisors shall appoint members of the Board. The Board shall consist of five (5) members. There shall be no term limit for members of the Board. Members may not be members of the Board of Supervisors or its code enforcement administrators, including its Building Code Officer. Members may be residents or non-residents, if qualified residents cannot be found, who shall be qualified by training and experience on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry, and training or experience as an inspector or plan reviewer.

C. REMOVAL:

Members of the Board hold office at the pleasure of the Supervisors. Any Board Member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by vote of a majority of the Supervisors, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held, if the Board Member requests one in writing.

D. VACANCIES:

Vacancies shall be filled by appointment by the Supervisors.

E. COMPENSATION:

The members of the Board may receive such compensation as shall be fixed by the Supervisors by resolution from time to time.

F. ORGANIZATION:

The Board may promulgate such rules or procedure, not inconsistent with this Ordinance and the Uniform Construction Code (35 P.S. §7210.101 et.seq) as well as the regulations adopted by the Commonwealth of Pennsylvania implementing the Uniform Construction Code as it may deem necessary to the proper performance of its duties and to the proper exercise of its powers. Such rules shall be continued in force and effect, until amended or repealed by the Board.

G. MEETINGS:

Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board shall determine and schedule. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be advertised and open to the public in accordance with the Sunshine Act.

H. MINUTES AND RECORDS:

The Board shall keep full public record of its proceedings showing the vote of each member upon each question or if absent or failing to vote indicating such fact. The Board shall keep the records of its examinations and other official action, all of which shall be immediately filed with the Secretary of the Supervisors, and shall be a public record.

SECTION 2. PROCEDURE FOR APPLICATION, JURISDICTION OF APPEALS, POWERS, VARIANCES AND EXTENSIONS OF TIME

A. PROCEDURE FOR APPLICATION TO THE UNIFORM CONSTRUCTION CODE APPEALS BOARD.

The Board shall act in strict accordance with the procedure specified by this Ordinance. All appeals and application made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the Ordinance or UCC code section involved and shall be based on a claim that the true intent of the act or UCC have been incorrectly interpreted, the provisions of the act or UCC do not fully apply, or an equivalent form of construction is to be used. The appeal or application shall exactly set forth the interpretation that is claimed, the grounds for any challenges to validity of the Ordinance, the details of the variance or extension that is applied for and the grounds on which it is claimed that the variance or extension should be granted, as the case may be.

1. Application for Appeal. Any person directly affected by a decision of the Building Code Official or a notice or order issued under the Uniform Construction Code administered by the Building Code Officer shall have the right to appeal to the Board provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice or order was served and specifically stating the grounds forming the basis for the appeal. The Building Code Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

2. Applications for appeal shall be submitted to the Township Secretary.

B. JURISDICTION OVER APPEALS, VARIANCES AND EXTENSION OF TIME:

The Board shall have jurisdiction to hear and rule on appeals, requests for variances and requests for extensions under the UCC.

1. Appeals, variances and extensions of time:

(a) An owner or owner's agent may seek a variance or extension of time or appeal a Building Code Officer's decision by filing a petition with the Building Code Official or other person designated by the Board on a form provided by the municipality.

(b) The postmark date or date of personal service will establish the filing date of the appeal, request for variance, and/or extension of time.

(c) An appeal or request for variance or extension of time to the Board will automatically suspend an action to enforce an order to correct until the matter is resolved. An action relating to unsafe building, structure or equipment may not be stayed.

2. Hearings and Decisions:

(a) The Board shall decide an appeal, variance request or request for extension of time by reviewing documents and written briefs or argument unless the owner or owner's agent requests a hearing.

(b) The Board shall hold a hearing within sixty (60) days from the date of an applicant's request unless the applicant agreed in writing to an extension of time.

(c) The hearing shall be conducted by the Board or by a member of the Board appointed as hearing officer. The decision or findings shall be made by the Board unless the parties waive such procedure and accept the decision or findings of the hearing officer as final.

(d) For the conduct of any hearing before the Board and the taking of any action by the Board, a quorum shall be required. A quorum shall constitute not less than a majority of all the members of the Board. If the Board appoints a hearing officer from its own membership to conduct any hearing on its behalf, the parties may waive further action by the Board as provided above.

(e) If the owner or owner's agent requests a hearing, the Board shall schedule a hearing and notify the owner or owner's agent and Building Code Officer of the date, time and place of the hearing.

(f) At the hearing, any party may appear in person, by agent, or by attorney.

(g) When making its final decision, the Board may deny the request in whole or in part, grant the request in whole or in part, or grant the request upon certain conditions being satisfied.

(h) The Board shall give the reasons for its decision or reasons in support of its findings in writing to all parties (applicant, owner, representative or Building Code Officer concerned who are entitled to receive same by law. If the Board does not make a decision or notify the applicant within forty-five (45) days after the hearing or continued hearing, it shall be deemed that such Board had decided in favor of the applicant seeking relief.

(i) The Board shall mail a copy of the final decision or where no decision is called for, of the findings to the applicant or owner by registered mail on the day following its date. To all other persons who have filed their name and address with the Board prior to the hearing, the Board shall provide by mail a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

3. Factors to consider:

(a) Whether making a decision after a hearing or without a requested hearing the Board shall only consider the following factors when deciding an "appeal" under Section 501c(2) of the UCC:

1. the true intent of the act or the UCC was incorrectly interpreted
2. an equivalent form of construction is to be used

(b) Whether making a decision with a hearing or without a requested hearing the Board may consider the following factors when ruling upon a "request for extension of time" or "request for variance":

1. the reasonableness of the UCC's application in a particular case
2. the extent to which the granting of a variance or an extension of time will pose a violation of the UCC or an unsafe condition
3. The availability of professional or technical personnel needed to come into compliance
4. The availability of materials and equipment needed to come into compliance
5. the efforts being made to come into compliance as quickly as possible
6. Compensatory feature that will provide an equivalent degree of protection to the UCC

C. CONFLICT OF INTEREST

A Board Member may not cast a vote or participate in a hearing in any appeal, request for variance or request for extension of time in which the member has a personal, professional or financial interest.

D. JOINT BOARD OF APPEALS

A joint board of appeals may be established with other municipalities through an inter-municipal agreement. Such agreement shall not be inconsistent with the provisions of the ordinance.

SECTION 3. EFFECTIVE DATE

This Ordinance shall become effective ten (10) days after adoption by the Board of Supervisors.

ENACTED AND ORDAINED this 7th day of March, 2016.

ATTEST:

Lisa Schell

SECRETARY

MAIN TOWNSHIP SUPERVISORS

Robert L. Frey

ROBERT FREY

Thomas Shuman

THOMAS SHUMAN

Richard Shuman

RICHARD SHUMAN