

Montrose, B.

AN ORDINANCE APPROVING, ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE BOROUGH OF MONTROSE, COUNTY OF SUSQUEHANNA, COMMONWEALTH OF PENNSYLVANIA; PROVIDING FOR THE CONTINUATION OF PREVIOUS PROVISIONS; REPEALING AND SAVING FROM REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF CERTAIN CHANGES TO PREVIOUSLY ADOPTED ORDINANCES; AND PROVIDING FOR THE PROPER MAINTENANCE OF THE CODE

Be it enacted and ordained by the Council of the Borough of Montrose, County of Susquehanna, Commonwealth of Pennsylvania, and it is enacted and ordained as follows:

§ 1-1. Approval, adoption and enactment of Code.

Pursuant to Section 1008(b) of the Borough Code [53 P.S. § 46008(b)], the codification of a complete body of ordinances for the Borough of Montrose, County of Susquehanna, Commonwealth of Pennsylvania, as revised, codified and consolidated into titles, chapters and sections by General Code Publishers Corp. and consisting of Chapters 1 through 114, together with an Appendix, is hereby approved, adopted, ordained and enacted as a single ordinance of the Borough of Montrose, which shall be known and is hereby designated as the "Code of the Borough of Montrose," hereinafter referred to as the "Code."

§ 1-2. Effect of Code; previous provisions.

The provisions of this Code, insofar as they are substantively the same as those of ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Council of the Borough of Montrose, and it is the intention of said Council that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only new or changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-15 below.

§ 1-3. Repeal of ordinances not contained in Code.

All ordinances or parts of ordinances of a general and permanent nature, adopted by the Council of the Borough of Montrose and in force on the date of the adoption of this Code, and not contained in the Code, are hereby repealed as of the effective date given in § 1-15 below, except as hereinafter provided.

§ 1-4. Ordinances saved from repeal; matters not affected by repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-3 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-3 or the saving of repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

- A. Any ordinance adopted subsequent to April 4, 1977.
- B. Any right or liability established, accrued or incurred under any legislative provision of the borough prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability, or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the borough or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision of the borough.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the borough, or any lawful contract, obligation or agreement.
- F. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the borough, or other instruments or evidence of the borough's indebtedness.
- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.

- I. Any ordinance authorizing the purchase, sale, lease or transfer of property, or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.
- J. Any ordinance annexing land to the borough.
- K. Any ordinance providing for or requiring the construction or reconstruction of sidewalks, curbs and gutters.
- L. Any ordinance, or part of an ordinance, providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property, or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; or providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.
- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the borough or setting the bond of any officer or employee.
- P. An ordinance of July 1, 1963, as amended, pertaining to the subdivision of land.
- Q. An ordinance of November 3, 1975, as amended, regulating mobile homes and mobile home parks.
- R. The Borough of Montrose Zoning Ordinance, adopted February 6, 1978, as amended.

§ 1-5. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature, adopted subsequent to the date given in § 1-4A and/or prior to the date of adoption of this ordinance, are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such legislation shall be temporarily placed in the Code until printed supplements are included.

§ 1-6. Changes and revisions in previously adopted ordinances; new provisions.

- A. Nonsubstantive grammatical changes. In compiling and preparing the ordinances of the borough for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one (1) or more of said ordinances. It is the intention of the Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. Nomenclature changes. Throughout the Code, the term "Justice of the Peace" (and "Burgess," where a judicial function is involved) have been changed to "District Justice." The obsolete title "Town Council" has also been changed to "Borough Council," and "Burgess" (except where a judicial function is involved) has been changed to "Mayor" in accordance with current statutory provisions.
- C. General deletions.
 - (1) Sections pertaining to severability, effective dates and repeals have been deleted since such provisions are included in this ordinance or are of no further effect.
 - (2) Sections assigning titles to various ordinances have been deleted as all ordinances have been given chapter or Article titles as part of the Code.
- D. Standardization of penalty provisions. In general, provisions prescribing penalties for violation of ordinances are revised to provide for a fine of not more than three hundred dollars (\$300.) or imprisonment for not more than thirty (30) days, or both. Such provisions conform generally to the penalties prescribed for summary offenses in the State Crimes Code. Sections of the Code so revised are as listed below, and such revisions are hereby approved and adopted. Unless otherwise indicated, provisions for a minimum fine are deleted.
 - (1) In Chapter 57, Firearms [adopted 9-9-57]: § 57-2 [former last clause of first unnumbered paragraph].
 - (2) In Chapter 64, Garbage, Rubbish and Refuse [adopted 9-14-71]: § 64-9 [former Section 10].
 - (3) In Chapter 76, Nuisances [adopted 3-5-73]: § 76-4 [former Section 4].
 - (4) In Chapter 79, Parks [adopted 8-1-77]: § 79-2 [former Section 3].

(5) In Chapter 91, Sewers:

(a) Article I, Connections [adopted 9-4-62]: § 91-20 [former Section 20].

(b) Article II, Use Regulations [adopted 2-7-77]: § 91-44 [former Section 5.01].

(6) In Chapter 102, Taxation, Article I, Real Estate Transfer Tax [adopted 6-7-71]: § 102-11 [former Section XII].

E. Other substantive changes and revisions. In addition to the changes and revisions described above, the following changes and revisions of a substantive nature are hereby made to various ordinances included in the Code. These changes are made to bring provisions into conformity with desired policies of the Council, and it is the intent of the Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-15.

(1) In Chapter 22, Pensions and Employee Benefits, Article I, Police Pension Fund [adopted 6-6-66]:

(a) In § 22-6, Eligible retirement age [former Section 6], the following is added at the end of the first sentence:

"provided, however, that there shall be compulsory retirement for all policemen who have reached the age of sixty-five (65) years."

(b) Section 22-8, Retirement benefit; service increment [former Section 8], is amended to read as follows:

"A. Any member of the Police Force meeting the service and age qualifications of this Article shall receive, upon retirement, a monthly pension equal to one-half (½) the monthly average salary of such member during the last sixty (60) months of employment less:

(1) An amount equal to seventy-five percent (75%) of any primary benefit under federal social security laws for which he may be eligible because of age.

(2) Benefits from existing provisions such as annuities purchased by the borough in lieu of benefits from establishing a Police Pension Fund.

B. Each member receiving a monthly pension or retirement benefit as aforesaid shall, in addition to the foregoing monthly benefit retirement payment, receive a service increment, which increment shall equal twenty-five dollars (\$25.) per month for each year of completed service beyond twenty-five (25) years; provided, however, that said service increment shall not exceed one hundred dollars (\$100.) per month."

- (c) Section 22-9, Disability benefits [former Section 9], is amended to read as follows:

" Pension benefits payable to members of the Police Force honorably discharged by reason of disability shall be in conformity to a uniform scale to be determined by Council. In the case of payment of pension benefits to members of the Force for permanent injuries incurred in the service and to families of members killed in service, the amount and commencement of the payments shall be fixed by regulation of Council."

- (2) In Chapter 31, Salaries and Compensation [adopted 5-6-74], the ordinances adopted on May 6, 1974, with respect to compensation of Councilmen: and salary of Mayor, are consolidated as §§ 31-1 and 31-2 and amended to read as follows:

" § 31-1. Compensation of Councilmen.

Councilmen in the Borough of Montrose shall receive compensation in the sum of fifty dollars (\$50.) a month.

§ 31-2. Salary of Mayor.

The Mayor of the Borough of Montrose shall be paid an annual salary of six hundred dollars (\$600.)."

(3). In Chapter 47, Code Enforcement [adopted 5-5-75]:

- (a) In § 47-7, Definitions [former Section 300], a new definition is added reading as follows:

"APPOINTING AUTHORITY or CHIEF APPOINTING AUTHORITY -- The Borough Council of the Borough of Montrose."

- (b) In Article II, Office of Code Enforcement [former Section 400], § 47-11, Deputies; qualifications, Subsection A [former Section 41.4] is amended to add the following at the end thereof:

"Subject to approval of the Borough Council, the Code Enforcement Official may delegate any of his powers, authorities and duties to a Code Enforcement Deputy. In this event, references to the CEO or Code Enforcement Official in this ordinance shall be interpreted to include the Code Enforcement Deputy."

§ 1-7. Interpretation of provisions.

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, other ordinance or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance or regulation shall control.

§ 1-8. Titles and headings; editor's notes.

- A. Chapter and Article titles, headings and titles of sections and other divisions in the Code, or in supplements made to the Code, are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code, and are not part of the ordinances.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the ordinances.

§ 1-9. Filing of copies of Code.

Three (3) copies of the Code in post-bound volumes shall be filed with the ordinance book in the office of the Borough Secretary and shall remain there for use and examination by the public. Upon adoption, such copies shall be certified to by the Borough Secretary, as provided by law, and such certified copies shall remain on file in the office of the Borough Secretary, available to persons desiring to examine the same during all times while the said Code is in effect.

§ 1-10. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing the said Code, as amendment and supplements thereto.

§ 1-11. Code books to be kept up-to-date.

It shall be the duty of the Borough Secretary, or someone authorized and directed by him or her, to keep up-to-date the certified copies of the book containing the Code required to be filed in the office of the Borough Secretary for the use of the public. All changes in said Code and all ordinances adopted by the Council subsequent to the effective date of this codification which the Council shall adopt specifically as part of the Code, shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-12. Publication of notices.

The Borough Secretary, pursuant to law, shall cause to be published in the manner required a notice of the introduction and of the adoption of the Code in a newspaper of general circulation in the borough. The enactment and application of this ordinance, coupled with the publication of the notices of introduction and adoption, as required by law, and the availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-13. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code, or any part or portion thereof, in any manner whatsoever, which will cause the law of the borough to be misrepresented thereby. Anyone violating this section of this ordinance shall be deemed guilty of a summary offense, punishable by a fine of not more than three hundred dollars (\$300.) or by imprisonment for not more than thirty (30) days, or both.

§ 1-14. Severability.

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, Article or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation and application to the clause, sentence, subsection, section, Article or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the Council that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, Article or part thereof had not been included therein.

§ 1-15. Effective date.

All provisions of this ordinance and of the Code shall be in force and effect on and after _____.

§ 1-16. Inclusion of ordinance in Code.

This ordinance shall be included in the Code as Chapter 1, General Provisions, Article I.

ENACTED AND ORDAINED this day of, 1978

BOROUGH OF MONTORSE

BY:
President

ATTEST:
Secretary

APPROVED this day of, 1978

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Mayor