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Tools for Finding Information: In addition to the municipality's legislation, this publication contains tools to help locate information: table of contents, index, chapter outlines (schemes), and a disposition list.

Chapters: Chapters are generally discrete pieces of legislation but can also be made up of several individual pieces on a related topic. In that case, the individual pieces are arranged into articles or parts within the chapter.

Reserved Chapters: In the numbering of chapters, space has been provided for the convenient insertion, alphabetically, of later enactments.

Section Numbering: A chapter related section numbering system is employed. Each section of every item of legislation is assigned a number, which indicates both the number of the chapter in which the item of legislation is located and the location of the section within that chapter. Thus, the fourth section of Chapter 6 is § 6-4.

Scheme: The scheme is the list of section titles that precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the scheme titles are repeated as section headings in the text.

Page Numbers: A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 begins on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

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PART I
ADMINISTRATIVE LEGISLATION

Chapter 5
AUDITOR

- § 5-1. Creation of Office of Auditor
- § 5-2. Appointment of Auditor
- § 5-3. Additional Duties
- § 5-4. Prior Elected Auditor Position Abolished

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 2-3-1969 by Ord. No. 326. Amendments noted where applicable.]

§5-1. Creation of Office of Auditor

There is hereby created the office of Independent Auditor to make an independent examination of the accounting records of the Borough of Fleetwood for the year, 1969, and each year thereafter.

§ 5-2. Appointment of Auditor

The Council of the Borough of Fleetwood shall appoint, annually, by resolution, the Independent Auditor who shall be a Certified Public Accountant registered in Pennsylvania, or a firm of Certified Public Accountants registered in Pennsylvania, or a competent Public Accountant, or a competent firm of Public Accountants.

§ 5-3. Additional Duties of Auditor

The Independent Auditor appointed as hereinabove provided in Section 5-2 shall, in addition to making an independent audit of the accounting records of the Borough of Fleetwood, also perform such other duties and exercise such other powers as are conferred upon an Independent Auditor by the provisions of the Borough Code of the Commonwealth of Pennsylvania.

§ 5-4. Prior Elected Auditor Position Abolished

Upon the appointment of an Independent Auditor as hereinabove provided, the office of elected auditor or auditors for the Borough of Fleetwood shall automatically be abolished as provided in the aforesaid Borough Code.

Chapter 12

BOROUGH AUTHORITY

- § 12-1. Creation of a Borough Authority
- § 12-2. Persons Authorized to Execute Articles
- § 12-3. Publication of Notice
- §12-4. Filing of Articles of Incorporation
- § 12-5. Initial Project of Incorporation
- § 12-6. First Members of Board

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 2-4-1952 by Ord. No. 185. Amendments noted where applicable.]

§ 12-1. Creation of a Borough Authority

The Council hereby signifies its intention and desire to organize an Authority under the provisions of the "Municipality Authorities Act of 1945", as amended.

§ 12-2. Persons Authorized to Execute Articles of Incorporation

The Burgess, the President of Borough Council and Secretary are hereby authorized and directed to execute on behalf of the Borough of Fleetwood, Articles of Incorporation for said Authority, in substantially the following form:

ARTICLES OF INCORPORATION

To the Secretary of the Commonwealth, Commonwealth of Pennsylvania.

In compliance with the requirements of the Act of May 2, 1945, P.L. 382, known as "Municipality Authorities Act of 1945", as amended, the Borough of Fleetwood, Berks County, Pennsylvania, desiring to incorporate an Authority thereunder, does hereby certify:

1. The name of the Authority is "Fleetwood Borough Authority".
2. Said Authority is formed under the provisions of the Act of May 2, 1945, P.L. 382, as amended.
3. No other Authority organized under the Act of May 2, 1945, P.L. 382, as amended, or under the Act of June 28, 1935, P.L. 463, as amended, is in existence in or for the incorporating municipality, the Borough of Fleetwood.
4. The name of the incorporating municipality is Borough of Fleetwood, Berks County, Pennsylvania.

5. The names and addresses of its municipal authorities are as follows:

Office	Name	Address
Burgess	J. Wallace Luckenbill	301 South Richmond Street Fleetwood, PA
President of Borough Council	Raymond J. Weida	119 East Washington Street Fleetwood, PA
Borough Treasurer	Samuel H. Hock	19 West Main Street Fleetwood, PA
Secretary of Council	Ellis W. Buchman	32 West Main Street Fleetwood, PA
Council:	Harel H. Becker	109 East Main Street, Fleetwood, PA
	Chester C. Heffner	133 S. Richmond Street Fleetwood, PA
	Harold W. Hinkle	310 E. Washington Street Fleetwood, PA
	Leroy W. Oswald	120 North Franklin Street Fleetwood, PA
	Russell A. Seaman	310 West Vine Street Fleetwood, PA
	Howard O. Waters	115 West Washington Street Fleetwood, PA
	Raymond J. Weida	119 East Washington Street Fleetwood, PA

6. The names, addresses and terms of office of the first members of the Board of the Municipal Authority to be formed hereby are as follows:

Name	Address	Terms of Office (Years)
Samuel S Homan	319 North Franklin Street Fleetwood, PA	5
Daniel J. Schlegel	107 West Main Street Fleetwood, PA	4
George J. Kline	32 West Main Street Fleetwood, PA	3
Ethan L. Trexler	15 South Franklin Street Fleetwood, PA	2
W. Hugh Jones	215 South Richmond Street Fleetwood, PA	1

7. The ordinance authorizing the creation of said Authority, certified from the records of the Council of the Borough of Fleetwood together with advertisements of notice of filing these Articles of Incorporation, are each submitted herewith.

8. The term of existence of said Authority shall be 50 years from the date of approval of these Articles of Amendment to the Articles of Incorporation. **[Amended 2-13-1964 by**

Ord. No. 272]

In witness whereof, the undersigned have executed these Articles on behalf of the Borough of Fleetwood and have caused to be affixed the seal thereof this day of _____ 1952.

(Borough Seal)

Burgess Attest

Secretary:

President of Borough Council

COMMONWEALTH OF PENNSYLVANIA :

:

COUNTY OF BERKS :

:

On this ____ day of _____, 1952, before me, the undersigned, personally came the above named _____ and _____, whose official positions in the Borough of Fleetwood are respectively Burgess President of Borough Council and Secretary and in due form of law acknowledged the foregoing to be the act and deed of the Borough of Fleetwood for the purposes therein specified.

Notary Public

§ 12-3. Publication of Notice

The proper officers of the Borough are hereby directed to cause a notice containing a brief statement of the substance of this ordinance, including the substance of the above Articles to be published one (1) time in a newspaper published and of general circulation in the County of Berks and one (1) time in the Berks County Law Journal, as required by the Act of May 2, 1945, P.L. 382, as amended.

§ 12-4. Filing of Articles of Incorporation

The President of Borough Council and the Secretary are directed to file said Articles of Incorporation, together with the necessary proofs of publication, with the Secretary of the Commonwealth, and to do all other acts and things necessary or appropriate to effect the incorporation of the Fleetwood Borough Authority, including the payment of any filing fees in connection therewith.

§ 12-5. Initial Project

The initial project which shall be undertaken by the said Authority is to acquire, hold, construct, improve, maintain, operate, own, and lease, in the capacity of either lessor or lessee, sewers, sewer systems or parts thereof and sewage treatment works including works for treatment and disposing of industrial waste for the Borough of Fleetwood and for such other territory as it may be authorized to serve.

§ 12-6. First Members of Board

The following named persons be and they hereby are appointed as the first members of the Board of the Authority whose terms of office shall commence on the date of appointment and shall be computed from January 1, 1953:

Name	Address	Term of Office (Years)
Samuel S. Homan	319 North Franklin Street Fleetwood, PA	5
Daniel J. Schlegel	107 West Main Street Fleetwood, PA	4
George J. Kline	32 West Main Street Fleetwood, PA	3
Ethan L. Trexler	13 South Franklin Street Fleetwood, PA	2
W. Hugh Jones	215 South Richmond Street Fleetwood, PA	1

Chapter 19

CIVIL SERVICE COMMISSION

§ 19-1. Civil Service Commission

§ 19-2. Initial Appointment

§ 19.3. Rules and Regulations

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 2-10-1969 by Ord. No. 328. Amendments noted where applicable.]

§ 19-1. Civil Service Commission

The Borough Council of the Borough of Fleetwood hereby acknowledges the existence of a Civil Service Commission in said Borough consisting of three (3) Commissioners who shall be qualified electors of the Borough, one (1) of whom shall serve initially for a term of two (2) years; one (1) of whom shall serve initially for a term of four (4) years, and one (1) of whom shall serve initially for a term of six (6) years, and each of their successors, after the expiration of said initial term, shall serve for a term of six (6) years.

§ 19-2. Initial Appointment

The following electors of the Borough of Fleetwood are hereby appointed as Commissioners of the Civil Service Commission, each Commissioner to serve for the term set forth after his respective name, each term to be computed from the first day of February, 1969:

- A. Jack I. Haas: two-year term.
- B. Barry Miller: four-year term.
- C. John F. Kline: six-year term.

§ 19-3. Rules and Regulations

The Civil Service Commission shall forthwith prepare rules and regulations for carrying into effect the provisions of the Borough Code relating to Civil Service, and shall submit such rules and regulations to the Borough Council of the Borough of Fleetwood for its approval. The Civil Service Commission shall be governed by said rules and regulations, and shall make the same available for public distribution or inspection.

Chapter 26
FIRE DEPARTMENT
ARTICLE I

- § 26-1. Fire Company Recognized
- § 26-2. Authorized Activities of the Fire Company
- § 26-3. Authorized Activities of Members of the Fire Company.
- § 26-4. Purpose.

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Fleetwood Volunteer Fire Company Number 1
[Adopted 1-9-1995 by Ord. No. 509]

§ 26-1. Fire Company Recognized

The Fleetwood Volunteer Fire Company # 1, organized and existing in the Borough of Fleetwood, Berks County, Pennsylvania, is hereby designated as the officially recognized fire company of the Borough of Fleetwood.

§ 26-2. Authorized Activities of the Fire Company

- A. The Fire Company recognized by the Borough is hereby authorized to provide such services to the Borough as may be necessary for the protection of property and persons situate within, which include, by way of example and not of limitation, the extinguishment and prevention of loss of life and property from fire, automobile accidents, medical emergencies, ambulance services, hazardous materials incidents, and other dangerous situations.
- B. The Fire Company may also provide nonemergency and public service functions such as, again by way of example and not limitation, removing water from property after storms, and assisting in the removal, abatement and prevention of damage or injury to persons or property, whether through natural or man-made situations.
- C. The Fire Company may also conduct and participate in such training activities and drills, either within or outside the Borough, as may be deemed necessary by the officers of the Fire Company to maintain proficiency in providing service.
- D. The Fire Company may also respond to calls and provide services to municipalities outside of the Borough.

§ 26-3. Authorized Activities of Members of the Fire Company

In addition to actually participating in the activities of the Fire Company as authorized above, or in going to or returning from any activity, the members of the Fire Company recognized by the Borough are also authorized to do the following things:

- A. Engage in any type of drill, training, prevention activity such as fire prevention programs, ceremony, practice, test, or parade, when dully called for or authorized by an officer or officers of the Fire Company;
- B. Engage in fund-raising activities for the Fire Company, when authorized by an officer or officers of the Fire Company;
- C. Engage in the performance of any other duty or activity authorized by an officer of the recognized Fire Company.

§ 26-4. Purpose

The purpose of this Ordinance is to recognize the Fire Company as the official fire company of the Borough, and to state additional authorized activities for fire fighters for Workers' Compensation purposes.

Chapter 35

INTERGOVERNMENTAL AGREEMENTS

**ARTICLE I
Criminal Investigator**

§ 35-1. Deleted

**ARTICLE II
Reciprocal Emergency Assistance**

§ 35-7. Scope
§ 35-8. Purpose
§ 35-9. Term

**ARTICLE III
Berks County Uniform Construction Code
Board of Appeals**

§ 35-10. Title
§ 35-11. Council Approval
§ 35-12. Borough Council President
Authorized to Execute
§ 35-13. Ratification
§ 35-14. Council Authorization
§ 35-15. Term

**ARTICLE IV
Joint Comprehensive Plan**

§ 35-16. Agreement
§ 35-17. Condition of the Agreement
§ 35-18. Duration of the Agreement
§ 35-19. Purpose and Objectives of the
Agreement
§ 35-20. Financing
§ 35-21. Performance

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Criminal Investigator

[Adopted 2-9-1976 by Ord. No. 396]

§ 35-1. Deleted

ARTICLE II

Reciprocal Emergency Assistance

[Adopted 8-13-2001 by Ord. No. 542]

§ 35-7. Scope

The Borough is hereby authorized to enter into the Agreement with the County of Berks, various political subdivisions within the County of Berks, and private entities located within the County of Berks, to provide for reciprocal emergency assistance. A true and correct copy of the Agreement on file in the Borough of Fleetwood office.

§ 35-8. Purpose

The Borough shall provide and receive reciprocal emergency assistance as specified in the Agreement as required by the Borough Code.

§ 35-9. Term

The term of the Agreement will continue in force and remain binding upon the Borough until the Borough takes action to withdraw therefrom. The Borough may withdraw upon ninety (90) days' written notice to each of the parties to the Agreement.

**ARTICLE III
Berks County Uniform Construction Code Board of Appeals**

[Adopted 4-8-2006 by Ord. No. 559]

§ 35-10. Title

The Title and Background of this Ordinance set forth are incorporated herein by reference.

§ 35-11. Council Approval

The Borough Council hereby approves entering into the Agreement, a copy of which is on file at the Borough of Fleetwood office (and which shall be filed with the minutes of the meeting at which this Ordinance was enacted), with the intent and effect that the Borough shall be bound by the Agreement.

§ 35-12. Borough Council President Authorized to Execute

The President of Borough Council is hereby authorized and directed on behalf of the Borough:

- A. To execute and deliver the Agreement; and
- B. To execute and deliver such additional instruments, and to take such further actions, as may be necessary or appropriate to carry forth the Agreement and the transactions to be effected under the Agreement, including payment of the participation fee to Berks County on behalf of the UCC Board of Appeals, as may be due from the Borough under the Agreement.

§ 35-13. Ratification

All actions of any officer, agent or other representative of the Borough heretofore taken in the pursuit of the establishment of the UCC Board of Appeals and/or the Borough's participation therein are hereby ratified and approved in all respects.

§ 35-14. Council Authorized

The Borough Council is hereby authorized to take such other action as may be necessary or appropriate to carry out the purposes of this Ordinance and of the Agreement.

§ 35-15. Terms

As required by the Pennsylvania Intergovernmental Cooperation Act, the following matters are specifically found and determined:

- A. The conditions of the Agreement are set forth in the Agreement.
- B. The Borough shall utilize the UCC Board of Appeals for all appeals filed from application of the Borough's UCC ordinance for the term as set forth in the Agreement.
- C. The purpose and objectives of the Agreement are as set forth in the Background of this Ordinance and in the Agreement.
- D. The manner and extent of financing the Agreement are that:
 - (1) No borrowing will be required by the Borough;
 - (2) Funds to implement the Borough's obligations under the Agreement shall come from normal and usual budgeted amounts for such matters; and
 - (3) Other provisions governing the manner and extent of the financing of the UCC Board of Appeals shall be as set forth in the Agreement;
- E. The UCC Board of Appeals shall be administered by the Board of Commissioners of Berks County or its designee.
- F. All property, real or personal of the UCC Board of Appeals shall be acquired, managed, licensed or disposed of by the UCC Board of Appeals in accordance with the terms of the Agreement and the rules and procedures as may be adopted by the UCC Board of Appeals.
- G. The UCC Board of Appeals will not be entering into any contract.

ARTICLE IV

Joint Comprehensive Plan

[Adopted 1-11-2010 by Ord. No. 576]

§ 35-16. Agreement

The Borough, acting by and through its Borough Council shall enter into an Agreement entitled Fleetwood-Maidencreek-Richmond Joint Comprehensive Plan Intergovernmental Agreement ("Agreement"). The President of Borough Council is hereby expressly authorized, upon the approval of Borough Council, to execute the Agreement on behalf of the Borough and for such other related documents as may be necessary and/or requisite to carry out its intent and purpose.

§ 35-17. Condition of the Agreement

The Agreement shall only be valid if all municipalities enact an Ordinance pursuant to the

requirements of the Intergovernmental Cooperation Act, the Act of December 19, 1996, P.L. 1158, No. 177 (53 Pa.C.S.A. § 2301, et seq.), as amended, adopting and approving the Agreement and authorizing the proper municipal officials to execute the same.

§ 35-18. Duration of the Agreement

The Agreement shall remain in full force and effect in accordance with its terms until either party gives not less than one (1) year's notice as provided for in the Agreement.

§ 35-19. Purpose and Objectives of the Agreement

The Agreement is designed to create the legal framework within which the Municipalities may commence and complete Joint Municipal Planning in accordance with the Pennsylvania Municipalities Planning Code, as amended.

§ 35-20. Financing

The Municipalities shall pay any expenses from the general fund and seek reimbursement from grants where appropriate.

§ 35-21. Performance

The Borough shall execute and perform in accordance with the Agreement.

Chapter 44

PENSIONS

ARTICLE I

Non-Uniformed Employee's Pension Plan

- § 44-1. Plan Established
- § 44-2. Master Plan
- § 44-3. Adoption of PSAB Master Retirement Trust
- § 44-4. Successor of Prior Plan
- § 44-5. Effective Date
- §44-6. Amendment of Non-Uniformed Pension Plan
- §44-7. Money Purchase Pension Plan

ARTICLE II

Police Pension Plan

- § 44-8. Retirement Plan Established
- § 44-9. Plan Amendment
- § 44-10. Adoption of PSAB Master Retirement Trust
- § 44-11. Successor of Prior Plan
- § 44-12. Effective Date

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Non-Uniformed Employee's Pension Plan

[Adopted 12-23-2002 by Ord. No. 547]

§ 44-1. Plan Established

The Borough of Fleetwood (the "Employer") on April 16, 1969, established a retirement plan for certain of its non-uniformed employees known as the Borough of Fleetwood Non-Uniformed Pension Plan (the "Prior Plan").

§ 44-2. Master Plan

The Employer now desires to adopt the restated Master Plan and Trust currently administered by the Pennsylvania State Association of Boroughs Master Retirement Trust (the "PSAB Master Retirement Trust"), effective as of December 31, 2002.

§ 44-3. Adoption of PSAB Master Retirement Trust

In accordance with such purpose, the Employer hereby adopts the PSAB Master Retirement Trust and the accompanying Joinder Agreement, which documents together, shall constitute the retirement plan known as the Borough of Fleetwood Non-Uniformed Pension Plan (the "Plan").

§ 44-4. Successor of Prior Plan

Said Plan shall be deemed to be a continuation of and a successor to the Prior Plan.

§ 44-5. Effective Date

Effective as of December 31, 2002, the Joinder Agreement and the Pennsylvania State Association of Boroughs Master Retirement Trust, are hereby adopted by the Employer, to be known as the Borough of Fleetwood Non-Uniformed Pension Plan.

ARTICLE II

Police Pension Plan

[Adopted 7-12-2010 by Ord. No. 580]

§ 44-6. Retirement Plan Established

The Borough of Fleetwood (the "Employer") on April 16, 1969, established a retirement plan for certain of its employees known as the Borough of Fleetwood Police Pension Plan (the "Prior Plan").

§ 44-7. Plan Amendment

The Employer now desires to amend the plan currently administered by the Pennsylvania State Association of Boroughs Master Retirement Trust (the "PSAB Master Retirement Trust"), effective as of August 1, 2010.

§ 44-8. Adoption of PSAB Master Retirement Trust

In accordance with such purpose, the Employer hereby adopts the PSAB Master Retirement Trust and the accompanying joinder agreement, which documents together, shall constitute the retirement plan known as the Borough of Fleetwood Police Pension Plan (the "Plan").

§ 44-9. Successor of Prior Plan

Said Plan shall be deemed to be a continuation of and a successor to the Prior Plan.

§ 44-10. Effective Date

Effective as of August 1, 2010, the accompanying joinder agreement, a copy of which is on file in the Borough of Fleetwood office, and the terms of the Pennsylvania State Association of Boroughs Master Retirement Trust are hereby adopted by the Employer, to be known as the Borough of Fleetwood Police Pension Plan (the "Plan").

Chapter 51

PLANNING COMMISSION

§ 51-1. Commission Established

§ 51-2. Commission Defined

§ 51-3. Initial Appointment

§ 51-4. Powers and Duties

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 1-13-1969 by Ord. No. 325. Amendments noted where applicable.]

§ 51-1. Commission Established

A Planning Commission of the Borough of Fleetwood, Berks County, Pennsylvania, is Hereby established and created.

§ 51-2. Commission Defined

Said Planning Commission shall consist of five members, each of whom shall serve for a term of four years and until his successor is appointed and qualified, except that the terms of the members first appointed shall be so fixed that the term of one member shall be for one year, the term for one member shall be for two years, the term for one member shall be for three years, and the term for two members shall be for four years, computed from January 1, 1969.

§ 51-3. Initial Appointment

The following persons are hereby initially appointed to said Planning Commission to serve initially for the terms set forth following their respective names, computed from January 1, 1969:

- A. Bernard A. Dietrich: four-year term;
- B. Jay E. Burkert: four-year term;
- C. Clair W. Noll: three-year term;
- D. Terry Weidner: two-year term;
- E. David F. Mell: one-year term.

§ 51-4. Powers and Duties

The Planning Commission established by this Ordinance shall have all the powers and shall perform all of the duties as set forth in the Pennsylvania Municipalities Planning Code, Act No. 247, approved the 31st day of July, 1968, as amended, and such other powers and duties as may hereafter be granted it by law.

CHAPTER 58

POLICE DEPARTMENT

§ 58-1. Police Department Created

§ 58-2. Salary

§ 58-3. Powers and Duties

§ 58-4. Police Rank

§ 58-5. Police Authority Defined

§ 58-6. Reporting

§ 58-7. Suspension

§ 58-8. Property of the Borough

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 4-8-1937 by Ord. No. 142. Amendments noted where applicable.]

§ 58-1. Police Department Created

Be it ordained by the Council of the Borough of Fleetwood, and it is hereby enacted by authority of the same that a Police Department shall be and hereby is created in the said Borough of Fleetwood, to consist of so many appointees as Council shall from time to time by resolution determine.

§ 58-2. Salary

The salary of such appointee or appointees shall be determined by Council.

§ 58-3. Powers and Duties

The powers and duties of such appointees shall be identified as are now imposed upon them and granted to them by law, and such additional duties and powers as may from time to time be lawfully granted upon them and to them by resolution of Council.

§ 58-4. Police Rank [Added 6-12-1972 by Ord. No. 362; amended 4-11-1978 by Ord. No. 408; 8-14-1978 by Ord. No. 410]

The rank of Chief, the rank of Lieutenant, the rank of Sergeant, the rank of Corporal, the rank of Patrolman Investigator, and the rank of Patrolman are hereby created in the Fleetwood Borough Police Force, and the Borough Council, acting in accordance with the Civil Service Provisions of the Borough Code, is hereby empowered to appoint proper and qualified individuals to serve as Chief, Lieutenants, Sergeants, Corporals, Patrolman Investigators and Patrolmen, as the Borough Council, in its discretion, from time to time may deem proper. The ranks of Sergeant and Patrolman Investigator, however, shall be limited to those members of the Borough of Fleetwood Police Department who have completed their probationary period.

§ 58-5. Police Authority Defined

In addition to the above, the police shall have all privilege and authority, within the corporate limits of the Borough of Fleetwood, to arrest and commit to the Borough lockup or, in the

absence of same to the County Jail, all vagrants or disorderly persons, and such as shall commit any breach of the public peace or any act tending to imperil the personal security, or shall effect the safety or the property of the citizens, or such as they may have reason to suspect of any unlawful intention or design.

§ 58-6. Reporting

They shall take notice of and report to Borough Council all violations of the laws and ordinances relating to the order, decency and well-being of the community, together with all nuisances.

§ 58-7. Suspension

Any police officer neglecting or refusing to obey such rules and regulations as may be prescribed from time to time without reasonable or satisfactory excuse may be suspended by Borough Council and deprived of his pay during the period of such suspension or be dismissed from the force.

§ 58-8. Property of the Borough

The Borough shall provide each officer with a metallic badge, designating that officer's office. The Borough shall also provide equipment to Officers at Borough discretion which shall be and remain the property of the Borough, to be delivered to the Borough upon the decease, removal or resignation of such officer.

Chapter 67

SHADE TREE COMMISSION

§ 67-1. Commission Established

§ 67-2. Commission Authority

§ 67-3. Commission Appointment

§ 67-4. Plantings along State Owned Roadways

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 6-11-1984 by Ord. No. 443. Amendments noted where applicable.]

§ 67-1. Commission Established

There is hereby established a commission to be known as the Fleetwood Shade Tree Commission whose authority and responsibilities shall be those prescribed by the Pennsylvania Borough Code as from time to time amended.

§ 67-2. Commission Authority

Generally, but not by limitation, the authority and responsibilities of the Fleetwood Shade Tree Commission shall be to:

- A. Promulgate rules and regulations regulating the planting, removal, maintenance and protection of shade trees on the streets and highways in the Borough of Fleetwood; and
- B. Enforce the rules and regulations that the Fleetwood Shade Commission promulgates.

§ 67-3. Commission Appointment

The Fleetwood Shade Tree Commission shall be comprised of three individuals, all of whom shall be residents of the Borough of Fleetwood. The commission members shall be appointed by the Borough of Fleetwood Council for terms of five years except that the initial appointments shall be as follows:

- A. One commission member shall be appointed for a term of three years;
- B. One commission member shall be appointed for a term of four years;
- C. One commission member shall be appointed for a term of five years.

§ 67-4. Plantings along State Owned Roadways

No planting shall exist on state owned streets including Main Street and Route 662 between the street or alley curbing and the sidewalk or within any portion of the sidewalk. The Borough may direct by Resolution the removal of any plantings existing between the street and the sidewalk or in the sidewalk at any time by Resolution of Council. In the event the property owner does not remove the planting within thirty (30) days, the Borough may have the planting removed at

the homeowner's expense and bill the property owner. In the event the expense is not paid, the Borough Solicitor shall be authorized to enter a lien on the property which will include the cost to have the lien attached as well as a penalty of Five Hundred Dollars (\$500.00).

PART II
GENERAL LEGISLATION

Chapter 90

BICYCLES

§ 90-1. Definitions

§ 90-2. Sale of Bicycles Authorized

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 10-10-1983 by Ord. No. 438. Amendments noted where applicable.]

§ 90-1. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

BICYCLE -- Includes every device propelled by human power upon which any person may ride, having two or more tandem wheels, either one or both of which is of a diameter of twenty (20) inches or more.

OWNER -- Includes any individual person, firm, or association or incorporation which claims an interest in the property.

§ 90-2. Sale of Bicycles Authorized

A. All bicycles held for the Owner by the Borough of Fleetwood unclaimed by the Owner for more than 90 days from the date the bicycle first became demandable or distributable, shall be presumed abandoned and unclaimed, in accordance with the statutory law of Pennsylvania at 72 P.S. Section 1301.9.

B. The bicycles held pursuant to Part A of this Section may be disposed of by the Borough of Fleetwood at public auction at such time and place as may be designated by the Borough of Fleetwood or the Borough Council may, by resolution, donate the bicycle or bicycles to a charitable organization in the sole discretion of the Borough Council.

C. Any and all proceeds from the sale of the bicycle(s) aforesaid as provided in this Section, shall be retained by the Borough of Fleetwood and used for municipal purposes.

Chapter 97

BRUSH, GRASS AND WEEDS

§ 97-1. Grass and Yard Maintenance

§ 97-2. Corrective Action

§ 97-3. Penalty

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 9-10-1945 by Ord. No.162. Amendments noted where applicable.]

§ 97-1. Grass and Yard Maintenance [Amended 6-8-1970 by Ord. No. 343]

A. All persons, firms, corporations or other entities, owning or having a present possessory interest in any real estate in the Borough of Fleetwood, shall cut any and all weeds and other vegetation not edible or planted for some useful or ornamental purpose in excess of ten (10) inches in height and it is hereby made unlawful for any such person, firm, corporation or other entity to permit such weeds and other vegetation to grow upon such property to a height of more than ten (10) inches.

B. Federally and/or state documented "wetlands" shall be exempt from the provisions of the preceding paragraph. [Added 8-8-1994 by Ord. No. 504]

§ 97-2. Corrective Action

All weeds and other vegetation permitted to grow or remain contrary to the provisions of this ordinance, may be cut and removed by or under the direction of the President of Borough Council or Borough Engineer, or other person designated by Borough Council and the costs thereof, together with the penalties provided by law, shall be collected by lien or by action in assumpsit, or any such other manner as may be provided by law.

§ 97-3. Penalty

Any person violating this ordinance shall be subject to a fine of Seventy-Five Dollars (\$75.00), for each offense, in addition to the cost of correction and it is hereby declared that each refusal or neglect to comply with the terms of this ordinance shall be considered a separate violation thereof, and notice to the offender by the Borough shall not be necessary in order to constitute an offense, and in default of payment of the fine the Borough Solicitor shall be authorized to enter a lien on the property. This penalty may be amended by Resolution of Borough Council.

Chapter 105

BURNING, OUTDOOR

- § 105-1. Bonfire
- § 105-2. Burning Prohibited
- § 105-3. Permitted Fires
- § 105-4. Permission for a Civic Bonfire
- § 105-5. Penalty

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 8-11-1969 by Ord. No. 332. Amendments noted where applicable.]

§ 105-1. Bonfire

No person shall make or maintain, or assist in making or maintaining, any bonfire within the Borough of Fleetwood.

§ 105-2. Burning Prohibited

No person shall set or maintain, or assist in setting or maintaining, any fire out of doors within the Borough of Fleetwood, or burn or cause to be burned, or assist in burning or causing to be burned, any paper, boxes, rubbish, leaves, garbage refuse, or other material or substance of any kind out of doors within the limits of the Borough of Fleetwood.

§ 105-3. Permitted Fires

Anything to the contrary hereinbefore contained notwithstanding, it shall be lawful for a person to set or maintain a charcoal, gas or wood fire built in and confined to a non-combustible container with the following restrictions:

- A. **Permitted Locations for Open Fires:** Fire pits, rings, and all other receptacles must be at least ten (10) feet from nearest house, structure, road, property line, utility, tree or other combustible materials.
 - o **Exception:** While in use, grills, barbeques and fireplaces used strictly for cooking may be no less than five (5) feet from house, property lines, etc., (unless otherwise approved by the Fire Marshal).
 - o **Exception:** You may use a patio heater or other specially manufactured above-ground patio fire pit, fire table, chiminea, or similar patio device on a deck or patio if the device is designed and recommended for use in those locations by the manufacturer. Patio fire receptacles must be at least five (5) feet from house while in use, (unless otherwise approved by the Fire Marshal).
- B. **Prohibited Burning Materials (including but not limited to the following):** Absolutely NO treated wood, fresh cut limbs, leaves, green yard waste, paper, cardboard, plastic,

garbage, construction waste, oil/rubber/petroleum-based products, or any other material that cause excessive odor or smoke.

- C. **Maximum Size of Fire:** The burn area within the fire pit or fire ring or other receptacle actually containing the fire is no more than nine (9) square feet (3'x3') in area, and a minimum of eighteen inches (18") deep (from bottom of hole/pit/device to top of hole/pit/device or to the top of any surrounding stones/ring, etc., with flames maintained no higher than two (2) feet above the hole, pit, ring or other receptacle.
- D. **No Excessive Smoke, Odors or Emissions:** Smoke and odors shall be considered excessive if they contribute more than a negligible amount of air contaminants perceptible beyond your property line.
- E. **Constant Adult Supervision:** Adult supervision is required at all times until fire has been completely extinguished. Property owner is presumed to be responsible for assuring that all burning on their property complies with the Ordinance and should also keep a water hose or fire extinguisher nearby.
- F. **Police, Fire Marshal, or Code Officer are Authorized to Order Fires to be Extinguished:** The Police Officer, Fire Marshal, or Code Officer may order immediate extinguishment of any unauthorized or excessive fires or when wind or other weather conditions so warrant.

§ 105-4. Permission for a Civic Bonfire

Anything to the contrary hereinbefore contained, it shall be lawful for a civic organization in conjunction with its activities to set or maintain a bonfire within the Borough of Fleetwood after obtaining written permission from the Mayor or Borough Council by Resolution. In granting such permission, the Mayor or Borough Council by Resolution shall consider the purpose of such bonfire, the manner and place where such bonfire is to be set or maintained, and the effect of said bonfire upon the health, comfort and safety of residents of the Borough, and may require that necessary safety precautions be taken to prevent said bonfire from spreading or otherwise endangering the community.

§ 105-5. Penalty

Any person who shall violate or fail to conform to any provision of this Ordinance, shall, upon conviction thereof, be sentenced to pay a penalty of One Hundred Dollars (\$100.00) and the cost of prosecution. Borough Council may amend this penalty by Resolution. The Borough Solicitor shall be authorized to attach any unpaid penalty by lien to the property.

Chapter 112

CABLE TELEVISION

§ 112-1. Short Title	§ 112-7. Franchise Fees
§ 112-2. Grant of Authority	§ 112-8. Records and Reports
§ 112-3. Compliance with Applicable Law s and Ordinances	§ 112-9. Term of Franchise
§ 112-4. Conditions on Street Occupancy	§ 112-10. Qualifications and Procedure for Obtaining Franchise Permit
§ 112-5. Assignability	§ 112-11. Rates
§ 112-6. Rights of the Borough	§ 112-12. Penalties
	§ 112-13. Indemnification

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 4-5-1965 by Ord. No. 284. Amendments noted where applicable.]

§ 112-1. Short Title

This Ordinance shall be known and may be cited as the "CABLE TELEVISION ORDINANCE OF 1965."

§ 112-2. Grant of Authority

The Borough of Fleetwood is hereby authorized to grant the right and privilege to any person, persons, firms, corporations or other business entities qualifying hereunder to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways, public places, now laid out or dedicated and all extensions thereof or additions thereto in said Borough or such portion thereof as the Borough Council shall determine, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Borough of a cable television system. Said grant of the aforesaid right and privilege shall be subject, nevertheless, to the following regulation and conditions hereinafter imposed in this ordinance and such other regulations and conditions as may be imposed from time to time by the Borough of Fleetwood by appropriate action:

- A. **Non-exclusive grant.** The right to use and occupy said streets, alleys, public ways and public places for the purpose herein set forth shall not be exclusive, and the Borough shall have the right to grant such non-exclusive franchises to any other person, persons, firms, corporations or other business entities qualifying hereunder at any time.
- B. **Grant subject to Borough Code.** Any grant by the Borough hereunder is subject to all provisions of the Borough Code of the Commonwealth of Pennsylvania presently in force and as the same may hereafter amended, supplemented or modified.
- C. **State highway department permits.** Before any conduits, pipes or other structures be erected upon, under, or in any portion of any street or road within the Borough under the control of or subject to the provisions of the Rules and Regulations of the Pennsylvania Department of Highways, the franchisee, at his, her, its, or their expense,

shall obtain all requisite permits from the Pennsylvania Department of Highways and shall comply with all of the applicable Rules and Regulations of the Pennsylvania Department of Highways.

- D. **Easements and rights-of-way.** Any permit issued hereunder by the Borough shall be subject to the franchisee obtaining any and all necessary easements, rights-of-way and other grants from any and all property owners whose property may be affected or encroached upon by the construction, operation and maintenance of the aforesaid Cable Television System of the franchisee.

§ 112-3. Compliance with Applicable Laws and Ordinances.

Any franchisee shall at all times during the term of any franchise granted hereunder be subject to all of the laws of the United States of America, the Commonwealth of Pennsylvania, and any and all of the Ordinances and Regulations of the Borough of Fleetwood, now in effect, and such as may be adopted or enacted from time to time hereafter, and particularly be subject to the following conditions and regulations:

- A. **Interference.** Any system erected, operated and maintained by any franchisee hereunder shall be so constructed of such materials that it will absolutely prevent any interference on any television set, radio, electrical appliance, and any other electronic device of any resident or occupier of premises within the franchised area and, in the event that there is any such interference, the franchisee shall immediately at its sole cost and expense eliminated within forty-eight (48) hours the Borough shall have the power to suspend the operation of any Cable Television System Franchise within the Borough until such interference is eliminated.
- B. **Intentional interference.** Any franchisee hereunder shall not intentionally cause the emanation of any electrical interference which has the property or ability of interfering with any television set, radio, electrical appliance or other electronic device, and in the event that any franchisee hereunder shall intentionally cause said emanations, the franchise granted to said franchisee shall be immediately revoked and terminated.

§ 112-4. Conditions on Street Occupancy

- A. **Use.** All transmission and distribution structures, lines and equipment erected by the company within the Borough shall be so located as to cause minimum interference with the reasonable use of the streets, alleys and other public ways or reasonable convenience of property owners who adjoin any of said streets, alleys or other public ways and places.
- B. **Restoration.** In case of any disturbance of pavement, sidewalk, driveway, or other surfacing, the franchisee shall at its sole cost and expense and in manner approved by the Borough Engineer, replace and restore all paving, sidewalk, driveways or surface of any street or alley disturbed in the same condition as before said work was commenced.
- C. **Relocation.** In the event that at any time during the period of any franchise granted hereunder the Borough shall lawfully elect to alter or change the grade of any street, alley, or other public way, the company, upon reasonable notice by the Borough, shall at

its sole cost and expense remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and other television fixtures.

- D. **Placement of fixtures.** Any franchisee hereunder shall insofar as it is reasonably possible locate its wires, cables, conduits and other conductors and fixtures on existing utility poles. Any franchisee shall not place any poles or other fixtures where same will interfere with any utility, and all such poles or other fixtures placed in said street shall be placed in such location as shall have been previously determined by the Borough Engineer.

§ 112-5. Assignability

Any franchise granted hereunder shall not be assignable except upon the express authority of the Borough, duly noted upon the minutes of the Borough Council by a Resolution permitting said assignment and finding that the assignee is qualified under the terms of this Ordinance.

§ 112-6. Rights of the Borough

- A. **Borough rules.** The right is hereby reserved to the Borough to adopt from time to time, in addition to the provisions herein contained and such existing applicable ordinances, such additional rules and regulations as the Borough shall deem necessary.
- B. **Use of system by Borough.** Borough shall have the right during the term of any franchise to use free of charge, where construction exists within the Borough limits, the facilities of any franchisee for police and fire alarm system.
- C. **Use of system by School District or Districts whose areas are included within the Borough Boundaries.** The School District or Districts whose areas are included within the Borough boundaries shall have the right during the term of any franchise to use free of charge, where construction exists within the Borough limits, and the facilities of any franchisee for educational purposes.

§ 112-7. Franchise Fees

- A. The franchisee shall pay to the Borough for the privilege of obtaining a franchise permit and operating of any franchise hereunder the following fees:
- (1) The sum of Sixteen Dollars and Sixty-Seven Cents (\$16.67) per month to be paid for each of the months beginning with the month in which the franchise permit is initially issued and ending December 31st of the same year.
 - (2) The sum of Three Hundred Dollars (\$300.00) during the following calendar year.
 - (3) Three per cent (3%) of the gross receipts each calendar year thereafter, but not less than Four Hundred Dollars (\$400.00) in the aggregate, whichever is the greater.
- B. Any franchisee shall make payments to the Borough such fees on or before the 31st day of January of each year for the preceding year's operations, except as otherwise directed by Borough Council, and at time of payment the franchisee shall accompany said payment with an audited Statement of its business operation for the year by a Certified

Public Accountant certifying to the Borough that the gross receipts are as stated therein.

§ 112-8. Records and Reports

Franchisees shall at all times maintain proper and adequate records of the gross receipts together with records pertaining to its financial structure and a list of all its subscribers at an office within the County of Berks which shall be available at all reasonable hours to inspection by the Borough or its duly designated agents.

§ 112-9. Term of Franchise

Any franchise granted hereunder shall be for the remainder of the calendar year in which said franchise is granted, conditioned, however, that said franchise permit is automatically renewable each year upon the payment of the fees provided hereunder and compliance with the terms and conditions herein imposed and that the financial condition of the franchisee shall remain satisfactory to the Borough. The term financial condition shall be interpreted to mean that the franchisee's condition is such as it will permit the franchisee to perform all of its services to its subscribers.

§ 112-10. Qualifications and Procedure for Obtaining Franchise Permit

Franchise permits may be obtained hereunder by any person or persons or corporation of good repute and of good and sufficient financial condition upon presentment to the Borough of the following:

- A. Name of the applicant;
- B. Address of the applicant;
- C. Evidence of financial condition of the applicant and in the event of a corporation, names of principal stockholders and a financial statement of the corporation;
- D. Description of the area to be covered by the franchise;
- E. Schedule of proposed rates to be charged by the applicant for all services to be rendered to subscribers including but not limited to installation charge, monthly fees, etc.;
- F. Application shall be made upon forms supplied by the Borough and all information requested therein shall be submitted as requested.

§ 112-11. Rates

- A. All fees charged by franchisee shall be fair, just, reasonable and uniform and in accordance with the rate schedule submitted by the applicant at time of application for franchise permit.
- B. Change in rates by any franchisee may be made only in accordance with the following procedure:
- C. Franchisee shall notify the Borough in writing by registered mail of the proposed rate change and submit therewith the proposed amended rate schedule. Within twenty-one

(21) days of receipt of the registered letter by the Borough, the Borough shall arrange a meeting between franchisee and the Borough officials to discuss the proposed rate change. If Borough Council does not agree with changes requested by franchisee within fifteen (15) days after the meeting, then a Board of Arbitrators shall be selected. The Board of Arbitrators shall be composed of five (5) members, two (2) to be selected by the Borough, two (2) to be selected by the franchisee, and the fifth to be selected by the four (4) aforementioned representatives on the Board of Arbitrators. Said Board of Arbitrators is to render a decision (majority rules) for or against the rate change after fifteen (15) days from the date of their appointment to said Board. Any decision made by such Board of Arbitrators shall be in writing and a copy thereof, duly authenticated, shall be delivered on the day said decision is rendered to each, the franchisee and the Borough, and shall be binding upon all parties concerned.

§ 112-12. Penalties

- A. Any franchisee violating any of the terms or provisions of this Ordinance or any rules or regulations duly adopted by the Borough shall be cause for the forfeiture of any franchise permit.
- B. The distribution system of any franchisee to be hereafter installed shall not be abandoned with in whole or in part without the consent of the Borough. In the event of the failure of the franchisee to commence installation of the system within sixty (60) days after the issuance of a franchise permit, and the securing of the pole franchise with the utility companies, or in the event of the failure of the franchisee to render community television service to the Borough and the inhabitants thereof, contemplated and provided for by this Ordinance, within a period of six months from the date of issuance of the franchise permit, the Borough shall have the right, on reasonable notice to the franchisee, to declare the franchise granted hereunder as forfeited.

§ 112-13. Indemnification

Any franchisee hereunder shall immediately upon being granted a franchise permit submit to the Borough evidence that the franchisee is insured against liability to the public for injuries to person and property with any reputable and financially sound insurance company in an amount not less than Three Hundred Thousand Dollars (\$300,000) for any one (1) person, Five Hundred Thousand Dollars (\$500,000) for any one accident, and Three Hundred Thousand (\$300,000) for property damage; and that the Borough shall also be designated as insured under said policy, insuring the Borough against any liability which may arise by reason of the issuance of any franchise permit to any franchisee. Such policy of insurance shall be in full force and effect during the entire term of the franchise permit.

Chapter 119

CONSTRUCTION CODES, UNIFORM

- § 119-1. Enactment of the Uniform Construction Code Existing Ordinances
- § 119-2. Municipal Administration
- § 119-3. Administration and Enforcement
- § 119-4. Establishment of a Board of Appeals
- § 119-5. Savings Clause as to Existing Ordinances
- § 119-6. Fees
- § 119-7. Penalties and Additional Remedies of Borough

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 6-14-2004 by Ord. No. 552. Amendments noted where applicable.]

§ 119-1. Enactment of the Uniform Construction Code

- A. Except as modified by Section 1.B. hereof, the Uniform Construction Code as set forth in 34 Pa. Code, Chapters 401 through 405, inclusive, as amended, is hereby incorporated by reference and adopted as the official Municipal Building Code of Fleetwood Borough, Berks County, Pennsylvania.
- B. The Uniform Construction Code adopted by this Ordinance shall be amended automatically by all amendments, supplements, additions and later editions which may from time to time be promulgated as amendments, supplements, additions or later editions to or of the Uniform Construction Code.

§ 119-2. Municipal Administration

Fleetwood Borough hereby elects to and so shall administer and enforce the provisions of the Pennsylvania Construction Code Act, i.e., Act 45 of 1999, as amended to date and from time to time (35 P.S. § 7210.101 through and including § 7210.1103, as amended to date and from time to time), and all regulations permitted to be issued under the Pennsylvania Construction Code Act, as amended.

§ 119-3. Administration and Enforcement

The administration and enforcement of the Uniform Construction Code in Fleetwood Borough shall be accomplished by one or more of the following means, which shall be authorized by a Resolution of the Fleetwood Borough Council:

- A. The designation of an employee of Fleetwood Borough to act as the Fleetwood Borough Municipal Code Official;

- B. The retention of one or more Construction Code Officials or Third-Party Agencies to act on behalf of Fleetwood Borough as Municipal Code Officials within the municipal limits of Fleetwood Borough;
- C. A duly approved Intermunicipal Cooperative Agreement with one (1) or more municipalities for the purpose of jointly administering and enforcing the Pennsylvania Construction Code Act and the regulations issued thereunder;
- D. A written contract with another municipality authorizing that municipality to administer and enforce the Pennsylvania Construction Code Act and the regulations issued thereunder on behalf of Fleetwood Borough within the municipal limits of Fleetwood Borough.
- E. A written agreement with the Commonwealth of Pennsylvania Department of Labor and Industry for enforcement, plan reviews, and inspections of structures other than one or two-family dwelling units, utility structures, or miscellaneous use structures.

§ 119-4. Establishment of a Board of Appeals

- A. The Fleetwood Borough Council, by Resolution, shall establish the Board of Appeals required by the Pennsylvania Construction Code Act.
- B. If the administration and enforcement of the Pennsylvania Construction Code Act is undertaken by Fleetwood Borough jointly with one or more municipalities, the Board of Appeals shall be established by a joint Resolution of all participating municipalities.

§ 119-5. Savings Clause as to Existing Ordinances

- A. All Building Code Ordinances or portions thereof adopted by Fleetwood Borough before 11:59 p.m. prevailing time Thursday, July 1, 1999, shall continue in full force and effect provided:
 - (1) The provisions of those Building Code Ordinances equal or exceed the minimum requirements in the Uniform Construction Code; or
 - (2) Until the time any provisions of those Ordinances fail to equal or exceed the minimum requirements of the Uniform Construction Code, as amended from time to time.
- B. All existing Building Code Ordinances (or portions thereof) of Fleetwood Borough which are in effect when this Ordinance No. 552 is adopted and whose requirements are less stringent than the minimum requirements of the Uniform Construction Code are hereby automatically amended to conform with comparable provisions of the Uniform Construction Code.
- C. All other Ordinances of Fleetwood Borough which are not governed by the Uniform Construction Code shall remain in full force and effect.

§ 119-6. Fees

If any provision of the Uniform Construction Code permits the assessment, collection and

receipt by Fleetwood Borough of any fee, that fee shall be established and assessed pursuant to a Fee Schedule adopted by the Fleetwood Borough Council by Resolution, which may be amended from time to time by subsequent Resolutions.

§ 119-7. Penalties and Additional Remedies of Borough

- A. A person who violates any provision of this Ordinance, upon conviction in a Summary Proceeding before a District Justice, shall be sentenced to pay a fine of not less than One Hundred Fifty Dollars (\$150.00) or more than One Thousand Dollars (\$1,000.00) per violation, plus costs of prosecution.
- B. In addition to the enforcement of this Ordinance by a Summary Proceeding as provided for in Section 7.A., above, Fleetwood Borough, at its election, may institute appropriate Actions At Law or In Equity to restrain, correct or abate any violation of the Uniform Construction Code adopted by this Ordinance. If Fleetwood Borough elects to enforce the provisions of this Ordinance by an Action At Law or In Equity, any person who has violated or permitted the violations of the provisions of this Ordinance, upon being found liable therefor in a Civil Action commenced by Fleetwood Borough, shall pay a Judgment of not less than One Thousand Dollars (\$1,000.00) per violation, plus costs and attorney's fees incurred by Fleetwood Borough.
- C. Each day any violation exists and continues shall constitute a separate offense.
- D. If any Summary Proceeding or Civil Action authorized by this Section 7 brought against any person pursuant to this Ordinance becomes final and:
 - (1) No appeal to the Court of Common Pleas or other Appellate Court is then pending; and
 - (2) The violation still exists, then Fleetwood Borough, through any duly authorized agent, shall be and is hereby empowered to correct any violation by repair or otherwise.
- E. All costs, expenses, and attorney's fees incurred or expended by Fleetwood Borough for any repair, etc., of the violation as is permitted in Subsection D., above, together with an administrative charge of ten percent (10%) may be charged as a Municipal Claim or Lien against the real property on which the violation exists.

Chapter 128

CURFEW

- § 128-1. Curfew Established
- § 128-2. Loitering
- § 128-3. Parental Responsibility
- § 128-4. Additional Responsibility
- § 128-5. Ordinance Shall Not Provide
Permission
- § 128-6. Police Authority
- § 128-7. Penalty

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 8-11-1969 by Ord. No. 333. Amendments noted where applicable.]

§ 128-1. Curfew Established

It shall be unlawful for any person under the age of sixteen (16) years to be on or present in any public street, avenue, alley, park or other public place, or in any place of amusement, entertainment or refreshment or other place of business in the Borough of Fleetwood between the hours of 10:00 p.m. and 5:00 a.m. of the following day, prevailing local time, unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefor. The fact that said child, unaccompanied by a parent, guardian, or other person having legal custody, is found upon any street, alley or public place, after 10:00 p.m. or before 5:00 a.m. of the following day, prevailing local time, shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor.

§ 128-2. Loitering [Amended 6-8-1970 by Ord. No. 340]

It shall be unlawful for any person under the age of eighteen (18) years, but over the age of fifteen (15) years, to loiter, loaf or idle on or about public street, avenue, alley, park or other place, or at any place of amusement, entertainment or refreshment, or other place of business, in the Borough of Fleetwood, on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays between the hours of 10:00 p.m. and 5:00 a.m. of the following day, prevailing local time, and on Fridays and Saturdays between the hour of midnight and 5:00 a.m. of the following day, prevailing local time.

§ 128-3. Parental Responsibility

It shall be unlawful for any parent, guardian, or other person having the lawful care, custody or control of any person under the age of eighteen (18) years of age to allow or permit such person to violate the provisions of Section 128-1 or 128-2 hereof.

§ 128-4. Additional Responsibility

- A. It shall be unlawful for any person, firm, or corporation operating or in charge of any place of amusement, entertainment, or refreshment, or other place of business, to permit any minor under the age of eighteen (18) years to loiter, loaf, or idle in such place between the hours of 10:00 p.m. and 5:00 a.m. of the following day, prevailing local time.
- B. Whenever the owner or person in charge or control of any place of amusement, entertainment, refreshment, or other place of business, shall find persons under the age of eighteen (18) years loitering, loafing or idling in such place of business, in violation of Section 128-4 hereof, shall immediately order such person to leave and if such person refuses to leave the said place of business the operator thereof shall immediately notify the police department of the Borough of Fleetwood and inform said police department of the violation.

§ 128-5. Ordinance Shall Not Provide Permission

This Ordinance shall not be construed as permitting the presence at any time of any person under the age of eighteen (18) years at any place where his or her presence is now prohibited by any existing law or ordinance.

§ 128-6. Police Authority

- A. Any member of the police force of the Borough of Fleetwood is authorized to take temporary custody of any minor violating the provisions of this Ordinance and to return said minor to the parent, guardian, or other adult person having the lawful care and control of said minor.
- B. Any member of the police force of the Borough of Fleetwood is authorized to arrest with a warrant, or in those cases now authorized by law, without a warrant, any minor or minors or other person or persons violating the provisions of this Ordinance.

§ 128-7. Penalty

Any persons violating any of the provisions of this Ordinance shall upon conviction be sentenced to pay a fine of not more than Five Hundred Dollars (\$500.00) nor less than One Hundred Dollars (\$100.00) and in default of the payment of said fine and costs, to be imprisoned in the Berks County Prison for not more than ninety (90) days. Penalties in this Section may be amended by the Borough Council by Resolution. The Borough Solicitor is authorized to attach unpaid penalties as liens against real property.

Chapter 147

FLOODPLAIN MANAGEMENT

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[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 12-12-1988 by Ord. No. 466. Amendments noted where applicable.]

ARTICLE I

General Provisions

§ 147-1. Intent

The intent of this Ordinance is to:

- A. Promote the general health, welfare and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

§ 147-2. Applicability

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough unless a Building Permit has been obtained from the Building Permit Officer.
- B. A Building Permit shall not be required for minor repairs to existing buildings or structures.

§ 147-3. Abrogation

This Ordinance supersedes any other conflicting provision which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

§ 147-4. Disclaimer of Liability

- A. The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural cause, such as ice jams and bridge openings restricted by debris. This Ordinance

does not imply that areas outside any identified floodplain area or that land uses permitted within such areas will be free from flooding or flood damages.

- B. This Ordinance shall not create liability on the part of the Borough or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

ARTICLE II

Administration

§ 147-5. Building Permits Required

Building Permits shall be required before any construction or development is undertaken within any area of the Borough.

§ 147-6. Issuance of Building Permits

- A. The Building Permit Officer shall issue a Building Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any building permit, the Building Permit Officer shall review the application for permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough, and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.
- D. In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the Borough prior to any alteration or relocation of any watercourse.

§ 147-7. Application Procedures and Requirements.

- A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Borough. Such application shall contain the following:
 - (1) Name and address of applicant.
 - (2) Name and address of owner of land on which proposed construction is to occur.
 - (3) Name and address of contractor.

- (4) Site location.
- (5) Listing of other permits required.
- (6) Brief description of proposed work and estimated cost.
- (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine that all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances; all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and adequate drainage is provided so as to reduce the exposure to flood hazards. Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Section 5.01) as may be required by the Building Permit Officer to make the above determination:

- (1) A completed Building Permit Application Form.
- (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
 - (a) North arrow, scale, and date;
 - (b) Topographic contour lines, if available;
 - (c) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - (d) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
 - (e) The location of all existing streets, drives, and other access ways; and
 - (f) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
- (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - (a) The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;

- (b) The elevation of the one hundred year flood;
 - (c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred year flood; and
 - (d) Detailed information concerning any proposed floodproofing measures.
- (4) The following data and documentation:
- (a) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred year flood more than one foot at any point.
 - (b) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the one hundred year flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
 - (c) Detailed information needed to determine compliance with Section 4.02F., Storage, and Section 4.03, Development Which May Endanger Human Life, including:
 - [1] The amount, location and purpose of any dangerous materials, or substances which are intended to be used, produced, stored or otherwise maintained on site.
 - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 4.03 during a one hundred year flood.
 - (d) The appropriate component of the Department of Environmental Resources' "Planning Module for Land Development."
 - (e) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources, to implement and maintain erosion and sedimentation control.

§ 147-8. Review by County Conservation District

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Building Permit Officer to the County Conservation District for review and comment prior to the

issuance of a building permit. The recommendations of the Conservation District shall be considered by the Building Permit Officer for possible incorporation into the proposed plan.

§ 147-9. Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

§ 147-10. Changes

After the issuance of a building permit by the Building Permit Officer, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Building Permit Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to Building Permit Officer for consideration.

§ 147-11. Placards

In addition to the building permit, the Building Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Building Permit Officer.

§ 147-12. Start of Construction

- A. Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.
- B. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

§ 147-13. Inspection and Revocation

- A. During the construction period, the Building Permit Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Building Permit Officer shall have the authority to enter any building, structure, premises or development in the identified flood-prone

area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Ordinance.

- C. In the event the Building Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such fact to the Borough Council for whatever action it considers necessary.
- D. A record of all such inspections and violations of this ordinance shall be maintained.

§ 147-14. Fees

Applications for a building permit shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Building Permit Officer at the following rates:

Estimated Cost	Fee
\$0.00 to \$200.00	\$0.00
\$201.00 to \$1,000.00	\$5.00
Each additional \$1,000.00 or part thereof beyond the first \$1,000.00	\$1.00

§ 147-15. Enforcement

- A. **Notices.** Whenever the Building Permit Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulation adopted pursuant thereto, the Building Permit Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall (a) be in writing; (b) include a statement of the reasons for its issuance; (c) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires; (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State; (e) contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.
- B. **Penalties.** Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Building Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to Borough of not less than Twenty-Five Dollars (\$25.00) nor more than Three Hundred Dollars (\$300.00) plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or

penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Borough Council to be a public nuisance and abatable as such.

§ 147-16. Appeals

- A. Any person aggrieved by an action or decision of the Building Permit Officer concerning the administration of the provisions of this Ordinance, may appeal to the Borough Council. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Building Permit Officer.
- B. Upon receipt of such appeal the Borough Council shall set a time and place, within not less than ten (10) nor more than thirty (30) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of the Borough Council may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Floodplain Management Act.

ARTICLE III

Identification of Floodplain Areas

§ 147-17. Identification [Amended 12-22-1997 by Ord. No. 527]

The identified floodplain area shall be those areas of the Borough of Fleetwood which are subject to the one hundred year flood, as shown in the Flood Insurance Study (FIS) and accompanying Flood Insurance Rate Map (FIRM) prepared for the Borough by the Federal Emergency Management Agency (FEMA), dated December 5, 1997, or the most recent revision thereof.

§ 147-18. Description of Floodplain Areas/Districts.

The identified floodplain area shall consist of those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which one hundred year flood elevations have been provided in the FIS.

§ 147-19. Changes in Identification of Area

The identified floodplain area may be revised or modified by the Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

§ 147-20. Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough Planning Commission and any party aggrieved by this decision may appeal to the Borough Council. The burden of proof shall be on the appellant.

ARTICLE IV

General Technical Requirements

§ 147-21. General

- A. In the identified floodplain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the municipality.
- B. Within any floodway area, no new construction or development shall be permitted that would cause any increase in the one hundred year flood elevation.
- C. Within any AE Area/District, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred year flood more than one-foot to any point.
- D. Within any identified floodplain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.
- E. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved residential structure shall be 1-1/2 feet or more above the one hundred year flood elevation.
- F. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved nonresidential structure shall be 1-1/2 feet or more above the one hundred year flood elevation or be floodproofed up to that height. Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least 1-1/2 feet above the one hundred year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
- G. Fully enclosed space below the lowest floor (including basement) is prohibited. **[Amended 12-22-1997 by Ord. No. 527]**

H. Partially enclosed space below the lowest floor (including basement) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria. **[Added 12-22-1997 by Ord. No. 527]**

- (1) A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

I. Accessory structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- (1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
- (2) Floor area shall not exceed 600 square feet.
- (3) The structure will have a low damage potential.
- (4) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
- (5) Power lines, wiring, and outlets will be at least 1-1/2 feet above the one-hundred-year flood elevation.
- (6) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- (7) Sanitary facilities are prohibited.
- (8) The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (a) The minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.

- (b) The bottom of all openings shall be no higher than one foot above grade.
- (c) Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

§ 147-22. Special Requirement for the AE Area/District

Within any AE Area/District, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one-hundred-year flood more than one foot at any point.

§ 147-23. Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

- A. Fill. If fill is used, it shall:
 - (1) Extend laterally at least 15 feet beyond the building line from all points;
 - (2) consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
 - (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
 - (4) Be no steeper than one vertical or two horizontal feet unless substantiated data justifying steeper slopes are submitted to and approved by the Building Permit Officer, and
 - (5) Be used to the extent to which it does not adversely affect adjacent properties.
- B. **Drainage facilities.** Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. **Water and sanitary sewer facilities and systems.**
 - (1) All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
 - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
 - (3) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for

such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

- D. **Other utilities.** All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the change of impairment during a flood.
- E. **Streets.** The finished elevation of all new streets shall be no more than one foot below the Regulatory Flood Elevation.
- F. **Storage.** All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 4.03, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or floodproofed to the maximum extent possible.
- G. **Placement of buildings and structures.** All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.
- H. **Anchoring.**
 - (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - (2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.
- I. **Floors, walls and ceilings.**
 - (1) Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
 - (2) Plywood used at or below the Regulatory Flood Elevation shall be a "marine" or "water-resistant" variety.
 - (3) Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
 - (4) Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other water-resistant material.
- J. **Paints and adhesives.**
 - (1) Paints and other finishes used at or below the Regulatory Flood Elevations shall be of "marine" or water-resistant quality.

- (2) Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or water-resistant variety.
- (3) All wooded components (doors, trim, cabinets, etc.) shall be finished with a "Marine" or water-resistant paint or other finishing material.

K. Electrical components.

- (1) Electrical distribution panels shall be at least three feet above the one hundred year flood elevation.
- (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment. Water heaters, furnaces, air conditioning and ventilating units, and other mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

M. Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

§147-24. Development Which May Endanger Human Life

A. In accordance with the Pennsylvania Floodplain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, or any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances; shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- (1) Acetone.
- (2) Ammonia.
- (3) Benzene.
- (4) Calcium carbide.
- (5) Carbon disulfide.
- (6) Celluloid.
- (7) Chlorine.

- (8) Hydrochloric acid.
 - (9) Hydrocyanic acid.
 - (10) Magnesium.
 - (11) Nitric acid and oxides of nitrogen.
 - (12) Petroleum products (gasoline, fuel oil, etc.).
 - (13) Phosphorus.
 - (14) Potassium
 - (15) Sodium.
 - (16) Sulphur and Sulphur products.
 - (17) Pesticides (including insecticides, fungicides and rodenticides).
 - (18) Radioactive substances, insofar as such substances are not otherwise regulated.
- B. Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A. above, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A. above shall be elevated or designed and constructed to remain completely dry up to at least 1-1/2 feet above the one hundred year flood and designed to prevent pollution from the structure or activity during the course of a one hundred year flood. Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

§ 147-25. Special Requirements for Manufactured Homes

- A. Within any identified floodplain area, all manufactured homes and any additions thereto shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- B. Where permitted within any identified floodplain area, all manufactured homes and any improvements thereto shall be: [**Amended 12-22-1997 by Ord. No. 527**]
- (1) Placed on a permanent foundation;
 - (2) Elevated so that the lowest floor of the manufactured home is 1-1/2 feet or more above the elevation of the one hundred year flood;

- (3) Anchored to resist flotation, collapse, or lateral movement.

ARTICLE V

Activities Requiring Special Permits

§ 147-26. General

In accordance with the administrative regulations promulgated by the Department of Community Affairs to implement the Pennsylvania Floodplain Management Act, the following activities shall be prohibited within any identified floodplain area unless a Special Permit has been issued by the Borough:

- A. The commencement of any of the following activities, or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 - (1) Hospitals.
 - (2) Nursing homes.
 - (3) Jails or prisons
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

§ 147-27. Application Requirements for Special Permits

Applicants for Special Permits shall provide five copies of the following items:

- A. A written request including a completed Building Permit Application Form.
- B. A small scale map showing the vicinity in which the proposed site is located.
- C. A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
 - (1) North arrow, scale and date;
 - (2) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of two feet;
 - (3) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - (4) The location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;

- (5) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
- (6) The location of the floodplain boundary line, information and spot elevations concerning the one hundred year flood elevations, and information concerning the flow of water including direction and velocities;
- (7) The location of all proposed buildings, structures, utilities, and any other improvements; and
- (8) Any other information which the municipality considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

- (1) Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
- (2) For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
- (3) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred year flood;
- (4) Detailed information concerning any proposed floodproofing measures;
- (5) Cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
- (6) Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
- (7) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

- (1) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
- (2) Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred year flood;
- (3) A statement, certified by a registered professional engineer, architect, landscape

architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a one hundred year flood, including a statement concerning the effects such pollution may have on human life;

- (4) A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one hundred year flood elevations and flows;
- (5) A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the one hundred year flood elevation and the effects such materials and debris may have on one hundred year flood elevations and flows;
- (6) The appropriate component of the Department of Environmental Resources' "Planning Module for Land Development;"
- (7) Where any excavation or grading is proposed, a plan meeting the requirement of the Department of Environmental Resources to implement and maintain erosion and sedimentation control;
- (8) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Resources under Section 302 of Act 1978-166; and
- (9) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one hundred year flood.

§ 147-28. Application Review Procedures

Upon receipt of an application for a Special Permit by the Borough, the following procedures shall apply in addition to those of Article II:

- A. Within three working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough Planning Commission and Borough Engineer for review and comment.
- B. If an application is received that is incomplete, the Borough shall notify the applicant in writing, stating in what respect the application is deficient.
- C. If the Borough decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If the Borough approves an application, it shall file written notification, together with

the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five working days after the date of approval.

- E. Before issuing the Special Permit, the Borough shall allow the Department of Community Affairs 30 days after receipt of the notification by the Department to review the application and decision made by the Borough.
- F. If the Borough does not receive any communication from the Department of Community Affairs during the thirty-day review period, it may issue a Special Permit to the applicant.
- G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Borough and the applicant in writing of the reasons for the disapproval, and the Borough shall not issue the Special Permit.

§ 147-29. Special Technical Requirements

- A. In addition to the requirements of Article N of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article IV of this Ordinance or in any other code, ordinance or regulation, the more restrictive provision shall apply.
- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 - (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - (a) The structure will survive inundation by waters of the one hundred year floor without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one hundred year flood elevation.
 - (b) The lowest floor elevation will be at least 1-1/2 feet above the one-hundred-year flood elevation.
 - (c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred year flood.
 - (2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
- C. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical

methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. , shall be submitted in sufficient detail to allow a thorough technical review by the Borough and the Department of Community Affairs.

ARTICLE VI

Existing Structures in Identified Floodplain Areas

§ 147-30. Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 6.01 shall apply.

§ 147-31. Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. A No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred year flood.
- B. No expansion or enlargement of an existing structure shall be allowed within any AE area that would, together with all other existing and anticipated development, increase the one- hundred-year flood elevation more than one foot at any point.
- C. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.

ARTICLE VII

VARIANCES

§ 147-32. General

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective building developer or landowner, the Borough may, upon request, grant relief from the strict application of the requirements.

§ 147-33. Variance Procedures and Conditions

Requests for variances shall be considered by the Borough in accordance with the procedures contained in Section 2.11 and the following:

- A. A No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one hundred year flood

elevation.

- B. No variance shall be granted for any construction, development, use, or activity within any AE area that would, together with all other existing and anticipated development, increase the one hundred year flood elevation more than one foot at any point.
- C. Except for a possible modification of the one and one-half foot (1 ½') freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Article V) or to Development Which May Endanger Human Life (Section 4.03).
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Borough shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
- F. Whenever a variance is granted, the Borough shall notify the applicant in writing that:
 - (1) The granting of the variance may result in increased premium rates for flood insurance.
 - (2) Such variances may increase the risks to life and property.
- G. In reviewing any request for a variance, the Borough shall consider, at a minimum, the following:
 - (1) That there is good and sufficient cause.
 - (2) That failure to grant the variance would result in exceptional hardship to the applicant.
 - (3) That the granting of the variance will:
 - (a) Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense;
 - (b) Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- H. A complete record of all variance requests and related actions shall be maintained by the Borough. In addition, a report of all variances granted during the year shall be included in the annual report of the Federal Insurance Administration.
- I. Notwithstanding any of the above, however, all structures shall be designed and construed so as to have the capability of resisting the one hundred year flood.

ARTICLE VIII

Definitions

§ 147-34. General

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.

§ 147-35. Specific Definitions

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE OR STRUCTURE -A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

BASEMENT - Any area of the building having its floor below ground level on all sides. **[Added 12-22-1997 by Ord. No. 527]**

BUILDING -A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

COMPLETELY DRY SPACE-A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor. **[Added 12-22-1997 by Ord. No. 527]**

CONSTRUCTION - The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, includes the placement of manufactured homes.

DEVELOPMENT -Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, storage of materials or equipment, and the subdivision of land. **[Amended 12-22-1997 by Ord. No. 527]**

ESSENTIALLY DRY SPACE -A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water. **[Added 12-22-1997 by Ord. No. 527]**

FLOOD -A temporary inundation of normally dry land areas.

FLOODPLAIN AREA- A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

FLOODPROOFING -Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY -The designated area of a floodplain required carrying and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of

accommodating a flood of the one hundred year magnitude.

HISTORIC STRUCTURE-Any structure that is: **[Added 12-22-1997 by Ord. No. 527]**

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR - The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable no elevation design requirements of this ordinance. **[Added 12-22-1997 by Ord. No. 527]**

MANUFACTURED HOME - A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

MANUFACTURED HOME PARK - A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

MINOR REPAIR - The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

NEW STRUCTURE-Structures for which the start of construction commenced on or after June 8, 1981, and includes any subsequent improvements thereto. **[Added 12-22-1997 by Ord. No. 527]**

ONE HUNDRED YEAR FLOOD -A flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has one percent (1%) chance of occurring each year, although the flood may occur in any year).

RECREATIONAL VEHICLE -A vehicle which is:

- A. Built on a single chassis;
- B. Not more than 400 square feet, measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck;
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

[Added 12-22-1997 by Ord. No. 527]

REGULATORY FLOOD ELEVATION - The one hundred year flood elevation plus a freeboard safety factor of one and one-half feet (1 ½').

SPECIAL PERMIT -A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

STRUCTURE - Anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items.

SUBDIVISION-The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or residential dwellings shall be exempted.

SUBSTANTIAL DAMAGE-Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceeds 50% or more of the market value of the structure before the damage occurred. **[Added 12-22-1997 by Ord. No. 527]**

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: **[Amended 12-22-1997 by Ord. No. 527]**

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or;
- B. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Chapter 154

GARAGE SALES

- § 154-1. Title
- § 154-2. Purpose
- § 154-3. Definitions
- § 154-4. Permission
- § 154-5. Garage Sale Requirements
- § 154-6. Exceptions
- § 154-7. Enforcement

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 2-12-2001 by Ord. No. 539. Amendments noted where applicable.]

§154-1. Title

This local Ordinance shall be known as the "Ordinance Regulating and Restricting Garage Sales."

§ 154-2. Purpose

Rules and Regulations as set forth in this Ordinance are designed to control and restrict garage sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only, in keeping with the character of the neighborhood where this activity is carried on and with the zoning laws of the Borough of Fleetwood, Berks County, Pennsylvania. The intent of this Ordinance is to eliminate perpetual prolonged and extended garage sales in residential areas. Such sales, if carried on indefinitely, tend to become retail businesses in residential areas and zones, creating nuisances and usually violating the zoning regulations of Fleetwood, Berks County, Pennsylvania. The provisions of this Ordinance arise from the need to limit, regulate, restrict and control garage sales.

§ 154-3. Definitions

As used in this Ordinance, the following terms shall have the meanings indicated:

BOROUGH OF FLEETWOOD - Borough shall include all residential dwellings located within any type of zone, zoned areas, zoning districts, whether or not said areas or zones are residential, business, commercial or otherwise, within the geographic boundaries of the Borough of Fleetwood, Berks County, Pennsylvania.

GARAGE SALES -

- A. The sale or offering for sale of ten (10) or more new, used or secondhand items of personal property at any one residential premises at any one time;
- B. The terms includes all sales in residential areas entitled "garage sales", "yard sales", "tag sale", "porch sale", "lawn sale", "attic sale", "basement sale", "rummage sale", "flea market sale", or any similar casual sale of tangible personal property.

GOODS -Goods shall include any goods, warehouse merchandise or other personal property capable of being the object of a sale regulated hereunder.

PERSON - Person shall include individuals, partnerships, family groups, voluntary associations and corporations.

§ 154-4. Permission

Permission shall be granted by Borough Council, and permission shall be requested by electronic mail directed to Borough Council and by such other means as Borough Council may from time to time provide.

§ 154-5. Garage Sale Requirements

A. All garage sales held pursuant to these provisions shall be conducted between the hours of 7:00a.m. and 5:00p.m., only on the day or days on which permission is requested and granted by Borough Council.

B. A sign no larger in size than two feet (2') by two feet (2') may be installed on the property where the sale is being conducted. In addition, no more than two (2) other directional signs any larger in size than the two feet (2') by two feet (2') hereinbefore described may be installed on private property with the permission of said property owner. The signs may be displayed no more than four (4) days prior to the date of the sale and shall be removed within twenty-four (24) hours after the sale is concluded.

C. No sign or other display advertising the sale shall be placed on the public right-of-way. No lighted or illuminated signs shall be used. No signs shall be permitted that are pasted, stapled, nailed or otherwise temporarily attached to public utility poles or trees within the right-of-way of any street.

D. No more than two (2) garage sales per residence per year.

§ 154-6. Exceptions

This Ordinance shall not be applicable to:

A. Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

B. Persons acting in accordance with their powers and duties as public officials, executors, administrators and trustees.

C. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed nine (9) in number. Notwithstanding any provisions of this Ordinance, any person may sell up to nine secondhand articles without being subject to the provisions of this Ordinance.

D. Any sale conducted by any legitimate business or commercial or industrial establishment, on properties zoned under the zoning regulations of the Borough of

Fleetwood, Berks County, Pennsylvania and any other sale conducted by a business or commercial or industrial establishment under the protection of the nonconforming use section of the zoning laws, or by any other vendor, dealer, etc., when the sale is conducted in a properly zoned area and not otherwise prohibited by the laws and Ordinances of the Borough of Fleetwood, Berks County, Pennsylvania, or this Ordinance.

- E. Sales by a bona fide charitable, educational, cultural or governmental institution, civic group, service club, religious or fraternal society or other tax-exempt organization; provided, however, that the burden of proof of establishing the exemption under this section shall be on the organization or institution claiming such exemption.
- F. Any public auction conducted by an auctioneer, licensed by the Commonwealth of Pennsylvania having a duration of no more than two (2) days.

§ 154-7. Enforcement

- A. This local law shall be enforced by the police department having jurisdiction within the Borough of Fleetwood, Berks County, Pennsylvania.
- B. It shall be the duty of the police department to investigate any violations of this Ordinance coming to its attention whether by complaint or arising from its own personal knowledge.
- C. If, after investigating a violation is found to exist, the Police Department shall prosecute a Complaint before a District Justice pursuant to the provisions of this Ordinance.
- D. Repealed
- E. Repealed
- F. No such person shall permit any loud music or other loud and boisterous noises on such premises or permit vehicles to impede the passage of traffic on any roads or streets in the area of the premises where the sale is being conducted.
- G. In the event of an emergency, all such persons shall obey reasonable orders from any member of the police department or the fire department having jurisdiction to maintain order and public health and safety within the Borough of Fleetwood, Berks County, Pennsylvania.

§ 154-8. Penalty

Any person, firm, association, corporation or other entity conducting any such sale or similar activity who shall violate or fail to comply with any provisions adopted pursuant to this Ordinance or any other rules, terms, regulations or provisions adopted pursuant to this Ordinance shall be deemed to be a violation. Violator(s) shall be liable for neither a fine of not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00). Each day that such sale or violation occurs shall be deemed to constitute a separate and distinct violation of this Ordinance. This penalty may be amended by Resolution of Borough Council. **(Amended by Ordinance 605 April 14, 2014).**

Chapter 164

GRAFFITI

§ 164-1. Scope

§ 164-2. Definitions

§ 164-3. Prohibitions

§ 164-4. Violations and penalties; Removal
of Graffiti by Borough

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 10-13-2008 by Ord. No. 570. Amendments noted where applicable.]

§ 164-1. Scope

This Ordinance shall be known as the "Graffiti Ordinance of the Borough of Fleetwood" and shall apply to all graffiti occurring within the jurisdictional limits of the Borough of Fleetwood.

§ 164-2. Definitions

The following words, terms or phrases shall have the meanings ascribed to them in this section.

AUTHORIZED PERSON - A police officer, community service officer, or code enforcement officer of the Borough of Fleetwood.

BOROUGH - The Borough of Fleetwood, Berks County, Pennsylvania.

BROAD-TIPPED INDELIBLE MARKER - Any felt-tipped marker or similar implement which contains fluid which is not water soluble and which has a flat or angled writing surface one-half (½) inch or greater.

CONSENT - Voluntary agreement by a person.

GRAFFITI --

- A. Any inscription, work, symbol, figure, marking or design, including but not limited to, tags, throw-ups and pieces, that is marked, etched, scrawled, stained, drawn or painted and stuck on or adhered to any surface on public or private property without the express permission of the owner or owner's agent of such property, including but not limited to, any wall, underpass, overpass, trestle, tree, sign, pole, playground apparatus, utility box, building, structure, fixture or other improvements whether permanent or temporary, regardless of the content or nature of the material that has been applied, and which is visible from any public property or the public right-of-way, or from any private property other than the property on which the graffiti exists.
- B. Graffiti shall not be construed to apply to easily removable chalk markings on the public sidewalks and streets used in connection with traditional children's games.

GRAFFITI IMPLEMENT - Any implement capable of marking a surface to create graffiti

including but not limited to, aerosol or pressurized paint containers, markers, gum labels, paint brushes or etching tools, capable of scarring glass, metal, concrete or wood.

GUM LABELS - Any materials such as, but not limited to, decals, stickers, posters or labels which contain a substance commonly known as adhesive or glue, which cannot be removed from the surface in an intact condition and with minimal efforts.

MARKER - Any indelible or permanent marker or similar implement with a point, brush, applicator or other writing surface which at its broadest width is three-sixth (3/6) of an inch or greater and contains ink that is not water soluble.

MINOR - Any person under the age of eighteen (18) years.

NOTICE - A letter delivered to the owner of the property or placed securely on the front door or other highly visible area of a property which is defaced with graffiti. Said letter or sticker shall contain a statement that the graffiti must be removed within ten (10) days after the letter has been posted on the property or received by the owner of the property.

OWNER - Any and all persons with legal and/or equitable title to real property in the Borough.

PAINT STICK OR GRAFFITI STICK -Any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and upon application, leaving a visible mark and that is not water soluble.

PERSON - Includes any individual, firm, partnership, association, corporation, company or organization of any kind.

PIECES - Forms of graffiti represented by detail, multi-colored murals, ranging in size.

PROPERTY - Includes any real estate, including improvements thereon; and tangible personal property including but not limited to news boxes, newsstands, utility poles, public telephones, tree planters and other items of street furniture, and vehicles located thereon.

TAGS - A form of graffiti represented by stylized signatures of a writer's chosen name.

THROWUPS -Form of graffiti represented by large names or figures written in a bubble style, often with an outline written in a different color than the interior of the letters.

§ 164-3. Prohibitions

- A. No person owning or occupying any property within the Borough shall permit any graffiti to accumulate or otherwise remain on any property so as to be visible to the public.
- B. Upon discovery of graffiti, any authorized person shall issue written notice to the owner, occupant or other responsible agent of any premises whereon graffiti is present in violation of the provisions of this Ordinance, directing and requiring such person to remove such graffiti. In the event that graffiti is not removed within ten (10) days from the date of mailing of this first notice, a second notice to remove and request for consent to allow the Borough to enter upon the property for the purpose of graffiti removal at the owner's expense shall be issued. Failure to remove graffiti within ten (10) days of

mailing of the second notice shall constitute a violation of this Ordinance.

- C. It shall be unlawful for any person to commit any overt act resulting in or attempting to result in an application of graffiti.
- D. It shall be unlawful for any person to intentionally, maliciously or wantonly expose or tend to expose another to risk of violence, contempt or hatred on the basis of race, color, creed or religion by the use of what is commonly known as graffiti.
- E. It shall be unlawful for any parent, legal guardian or other person having custody and care of any minor child under the age of eighteen (18) years to knowingly assist, aid, abet, allow, permit or encourage said minor to violate the provisions of this Ordinance, as herein defined, either by words, overt act or by failing to act.
- F. All persons directly or indirectly involved in acts of graffiti vandalism may be found to be equally responsible and guilty of the act, in addition to the individual who may personally deface the object or area, such as others in the group who knowingly make available the tools, writing material, ladders, lookouts, materials or assistance, or who knowingly supplies funds to acquire such materials for such purposes.
- G. No minor shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any public property, highway, street, alley, sidewalk or park or while on any private property, unless the owner or person in possession of the property knows of the minor's possession of the aerosol container or marker and has consented to the minor's possession while on his or her property.
- H. No person, partnership or corporation shall sell, cause to be sold, furnish or convey to any person under the age of 18 years of age any aerosol container of spray paint or broad-tipped indelible marker.
- I. Every person, partnership or corporation who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers of spray paints or broad-tipped indelible markers shall place a sign in the direct view of such persons responsible for accepting customer payment for aerosol containers of spray paint or broad-tipped indelible markers substantially in the following form:

IT IS A VIOLATION OF THE LAW TO SELL AEROSOL CONTAINERS OF SPRAY PAINT OR BROAD-TIPPED INDELIBLE MARKERS TO PERSONS UNDER EIGHTEEN (18) YEARS OF AGE. THIS OFFENSE IS PUNISHABLE BY A FINE OR IMPRISONMENT. PUNISHMENT MAY BE IN THE FORM OF COMMUNITY SERVICE OR CLEANUP AT THE DISCRETION OF THE MAGISTERIAL DISTRICT JUDGE.

- J. Every person, partnership or corporation who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers of spray paints or broad-tipped indelible markers shall store or cause such aerosol containers or marker pens to be stored either:

- (1) In the direct line of sight from the cash register work area or any other work area that is normally continuously occupied while the store is open;
- (2) Under continuous electronic or mechanical surveillance or control; and
- (3) In a place not accessible to the public in the regular course of business without employee assistance, pending legal sale of such markers or paint containers.

§ 164-4. Violations and penalties; removal of graffiti by Borough.

- A. Any person who shall violate, fail, neglect or refuse to comply with Section 164-3.A. or B. of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine not exceeding One Thousand Dollars (\$1,000.00) and costs and, in default of payment thereof, shall be subject to imprisonment for a term not exceeding thirty (30) days. Each day that a violation of this Ordinance continues shall be considered a separate offense.
- B. Any person who shall violate Section 164- 3.C. through J. of this Ordinance shall, upon summary conviction thereof, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand (\$1,000.00) and the costs of prosecution, and in default of payment thereof, shall undergo imprisonment in the Berks County Prison for a period not exceeding thirty (30) days.
- C. If the owner, occupant or other responsible agent of the property fails to remove graffiti or give consent for removal within ten (10) days after the second notice of violation has been issued, the Borough may proceed to remove the graffiti, itself or by contract.
- D. Except where the legal fees, administrative and filing costs exceed the cost of removal, a bill for costs of removal shall be delivered to the property owner, occupant or other responsible agent and, in the event of nonpayment, the Borough may file a lien against the property in the amount of such costs. Liability for costs of removal shall be in addition to liability for any fine imposed.

Chapter 185

OBSCENE MATERIALS

- § 185-1. Offenses Defined
- § 185-2. Definitions
- §185-3. Dissemination to Minors
- § 185.4 Definitions
- §185.5. Injunction
- § 185-6. Summary Offense

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 8-9-1982 by Ord. No. 433. Amendments noted where applicable.]

§ 185-1. Offenses defined.

No person knowing the obscene character of the materials involved shall, within the Borough of Fleetwood:

- A. Display or cause or permit the display of any obscene materials in or on any window, showcase, newsstand, display rack, billboard, display board, viewing screen, motion picture screen, marquee or similar place in such manner that the display is visible from any public street, highway, sidewalk, transportation facility or other public thoroughfare;
- B. Sell, lend, distribute, exhibit, give away or show any obscene materials to any person eighteen (18) years of age or older or offer to sell, lend, distribute, exhibit or give away or show, or have in his possession with intent to sell, lend, distribute, exhibit or give away or show any obscene materials to any person eighteen (18) years of age or older, or knowingly advertise any obscene materials in any manner;
- C. Design, copy, draw, photograph, print, utter, publish or in any manner manufacture or prepare any obscene materials;
- D. Write, print, publish, utter or cause to be written, printed, published or uttered any advertisement or notice of any kind giving information, directly or indirectly, stating or purporting to state where, how, from whom, or by what means any obscene materials can be purchased, obtained or had; or
- E. Hire, employ, use or permit any minor child to do or assist in doing any act or thing mentioned in this subsection.

§ 185-2. Definitions

As used in this ordinance the following words and phrases shall have the following meanings:

COMMUNITY - For the purpose of applying the "contemporary community standards" in this section, community means the Borough of Fleetwood, Berks County, Pennsylvania.

KNOWING - As used in Section 1, knowing means having general knowledge of, or reason to know or a belief or ground for belief which warrants further inspection or inquiry of, the character and content of any material described therein which is reasonably susceptible of examination by the defendant.

OBSCENE MATERIALS - Any literature, including any book, magazine, pamphlet, newspaper, story paper, comic book or writing, and any figure, visual representation, or image including any drawing, photograph, picture or motion picture, if:

- A. The average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest;
- B. The subject matter depicts or described in a patently offensive way, sexual conduct of a type described in this section; and
- C. The subject matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value.

SEXUAL CONDUCT - Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, and patently offensive representations or descriptions of masturbation, excretory functions and lewd exhibition of the genitals.

TRANSPORTATION FACILITY - Any conveyance, premises or place used for or in connection with public passenger transportation, whether by motor vehicle or any other method, including buses, and railroad and bus terminals and stations.

§ 185-3. Dissemination to Minors

No person shall knowingly disseminate by sale, loan or otherwise explicit sexual materials to a minor. "Explicit sexual materials," as used in this section, means materials which are obscene or:

- A. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, or sadomasochistic abuse and which is harmful to minors; or
- B. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (a), or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

§ 185-4. Definitions

As used in this ordinance:

MINOR - Any person under the age of eighteen (18) years.

NUDITY - The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

§ 185-5. Injunction

The Solicitor for the Borough of Fleetwood may institute proceedings in equity in the Court of Common Pleas of Berks County when any person violates or clearly is about to violate this ordinance for the purpose of enjoining such violation. The Court shall issue an injunction only after written notice and hearing and only against the defendant to the action. The Court shall, when practicable, hold a hearing within three days after demand by the Solicitor for the Borough of Fleetwood. A written memorandum supporting the decree shall be filed.

§ 185-6. Summary Offense

Any person or entity that violates any provisions of this ordinance shall be guilty of a summary offense, punishable by a fine of not more than Three Hundred Dollars (\$300.00) per offense or ninety (90) days imprisonment or both. In default of payment of the fine, the Borough Solicitor shall be authorized to enter a lien on the property. This Penalty may be amended by Resolution of Borough Council.

Chapter 192

PARKS AND RECREATION AREAS

§ 192-1. Title	§ 192-9. Waste Disposal
§ 192-2. Fleetwood Park Defined	§ 192-10. Fires
§ 192-3. Park Daily Schedule	§ 192-11. Alcohol
§ 192-4. Parking Area	§ 192-12. Vehicle Safety
§ 192-5. Parking Prohibited	§ 192-13. Sporting Equipment
§ 192-6. Damage Prohibited	§ 192-14. Spring Riding Toy Safety
§ 192-7. Theft	§ 192-15. Horses
§ 192-8. Conduct	§ 192-16. Dogs/Domestic Animals
	§ 192-17. Rules
	§ 192-18. Violation /Penalty

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 11-12-1979 by Ord. No. 417. Amendments noted where applicable.]

§ 192-1. Title

This ordinance shall be known as and may be cited as the "Fleetwood Park and Pool Code".

§ 192-2. Fleetwood Park Defined [Amended 8-13-2001 by Ord. No. 541]

The following tracts of land which are owned by the Borough of Fleetwood and held for park and recreational purposes by said Borough are hereby established as public park areas of said Borough and are herein designated "Fleetwood Borough Park" (hereinafter referred to as "the park"):

- A. All that certain tract of land located in the western part of the Borough of Fleetwood, Berks County, Pennsylvania, and situate along the north side of West Main Street in said Borough, comprising several parcels of land as the same are described in Record Book 1003, Page 470; in Record Book 1003, Page 552; in Record Book 1044, Page 468; in Record Book 1232, Page 380; in Record Book 1298, Page 13; and in Record Book 1489, Page 347, all Berks County Records;
- B. All that certain tract of land located along Fleetwood Avenue in the eastern section of the Borough of Fleetwood as the same is described in Record Book 1551, Page 891, Berks County Records;
- C. All that certain tract of land located along the south side of a 50 foot wide permanent right-of-way (Locust Street extended) east of the intersection of Locust Street and Oak Street in the Borough of Fleetwood as the same is described in Record Book 1877, Page 719, Berks County Records;
- D. All that certain tract of land situate on the northern side of North Richmond Street in the Borough of Fleetwood as the same is described at Exhibit "A" in Record Book 1996, Page 948, Berks County Records;

- E. All that certain tract of land situate on the northwestern corner at the intersection of North Richmond Street and Friendship Drive as shown on the development plan of Willow Creek in the Borough of Fleetwood as the same is described at Exhibit "B" in Record Book 1996, Page 948, Berks County Records; and
- F. All that certain tract of land situated on the northwestern topographical corner of West Arch Street and Green Street in the Borough of Fleetwood as the same is described in Purpart No. 2 in Record Book 2167, Page 2344, Berks County Records.
- G. Locust Street Park - the tract of land located at 26 East Locust Street as the same is described in Record Book 1877, Page 0719, Berks County Records and designated the "Locust Street Park".
- H. Fleetwood Pool Park - the tracts of land which are owned by the Borough of Fleetwood and held for pool and recreational purposes by the Borough fronting West Vine Street as the same is described in Record Book 1044, Page 0468, Berks County Record and designated the "Fleetwood Pool".

§ 192- 3. Park Daily Schedule

- A. The park shall be opened daily to the public between sunrise and sunset. The terms "sunrise" and "sunset" shall be construed as that time as established by the Reading Eagle daily, plus an additional 30 minutes prior to sunrise and an additional 30 minutes after sunset. Except as hereinafter provided, an organized sports activity may be held after the sunrise to sunset times with the written permission of the Mayor or Borough Council by Resolution of the Borough of Fleetwood. No organized sports activity is to be held beyond the hour of 11:30 p.m. No person, other than authorized employees or officials of the Borough of Fleetwood shall be in the park at any time between sunset and sunrise.
- B. No group shall hold or continue any function within the park between the hours of sunset to sunrise except with the written permission of the Mayor or Borough Council by Resolution of the Borough of Fleetwood. Said Mayor or Borough Council by Resolution is hereby empowered to grant written permission to any person or group desiring to hold such a function within the park area subsequent to the hour of 11:30 p.m. whenever, in the opinion of the Mayor or Borough Council by Resolution, the holding or continuing of such function will not adversely affect the safety, health or general welfare of the persons attending said function or the safety, health, morals or general welfare of the citizens or residents of the Borough of Fleetwood.
- C. Signs shall be posted at the park entrances to the park stating the closing of the park from sunset to sunrise.

§ 192-4. Parking Area

The Mayor of the Borough of Fleetwood or Borough Council by Resolution is hereby authorized and empowered to designate both permanent and temporary parking areas within the park and at the pool. The Borough Police are hereby authorized and empowered to designate temporary

parking areas within the park and at the pool, to temporarily close any road or roads within said park and at the pool and to otherwise regulate and direct the operation of vehicles and other modes of transportation within said park and at the pool. Whenever any road within said park and at the pool has been temporarily closed as hereinabove provided, such closed road shall not be considered a road within the meaning of this Ordinance and no person shall operate any vehicle or other mode of transportation upon the same while said road is temporarily closed.

§ 192-5. Parking Prohibited

No person shall park any vehicle, whether attended or unattended, within the park or at the pool except in the following designated parking areas hereinafter provided: Between sunrise to sunset all vehicles may park at designated areas of the park and at the pool. No vehicles to park or drive at any other locations except during those times the Mayor of the Borough of Fleetwood or the Borough Council by Resolution has given written permission to hold or continue any function may a vehicle be driven beyond the designated areas. If permission is granted to drive or park vehicles beyond said designated areas, no vehicle may park on the roadway prohibiting free movement of traffic.

§ 192-6. Damage Prohibited

No person shall injure, deface, remove, cut or damage any of the trees, plants, shrubs, turf, buildings, structures, fixtures or any other property in the Borough of Fleetwood located within the park or at the pool.

§ 192-7. Theft

No person shall remove any bench, seat or table from the park or at the pool.

§ 192-8. Conduct

No person shall conduct himself or herself within the park or at the pool so as to annoy any other person using the park or the pool for recreational purposes.

§ 192-9. Waste Disposal

No person shall dispose of any waste or garbage in the park or at the pool except in receptacles designated for such purposes. All persons using the park or the pool shall dispose of all waste and garbage left by them in such designated receptacles.

§ 192-10. Fires

No person shall build, set or maintain any fire within the park or at the pool except fires for cooking purposes within properly constructed fire places or metal braziers or charcoal grills. All fires built and maintained as hereinbefore provided shall, nevertheless, be constantly attended by an individual at least 16 years of age. Any person building or maintaining such a fire shall, before leaving the area thereof, dispose of said fire by first thoroughly quenching the same with water and then placing the quenched coals or ashes remaining therefrom in a container within the park or at the pool designated for such purpose. No person shall throw, place or scatter fire coals or ashes upon the ground or upon or against any tree, shrub or plant or upon or against

any building or other improvement within the park. Fires are not permitted in the gazebo by the lake at the Fleetwood Borough Park.

§ 192-11. Alcohol

No person shall bring, cause to be brought, keep, have, drink or consume any spirituous liquor or any intoxicating beverage of any kind, including beer, into, onto or within the park or at the pool, or in any motor vehicle, either for his own use or for the use of any other person.

§ 192-12. Vehicle Safety

- A. No person shall operate any motor vehicle, bicycle or any other mode of transportation within the park or at the pool in such a manner as to disregard the rights or safety of others or in such a manner so as to endanger any person or property.
- B. Any person operating a motor vehicle within the park or at the pool shall drive such vehicle only upon the roads located therein or upon a designated parking area, provided, however, that this provision shall not apply to persons actually engaged in duly authorized construction, maintenance or repair work within the park or at the pool.
- C. No person shall ride upon or operate or park any motorcycle, moped, or motorized bicycle at any location other than those designated parking areas as hereinabove defined. At no time are motorized carts, snowmobiles, or motorized three wheel vehicles to be operated within the area designated as a Park or at the pool.

§ 192-13. Sporting Equipment [Amended 8-13-2001 by Ord. No. 541]

- A. No person shall ride or park a bicycle, skateboard or scooter within any play area or upon any athletic field or basketball court located within the park or inside of the pool area. For the purposes of this provision, a play area shall be defined to include any area within the park in which a sliding board, monkey gym, sandbox, seesaw, spring riding toy or the like has been or is hereafter placed for children's play.
- B. No person shall ride or park a bicycle, skateboard, scooter, roller blades or roller skates on the stage located within the park.
- C. All sporting equipment used in the park shall be used in a manner specifically defined for that purpose and in a safe manner.

§ 192-14. Spring Riding Toy Safety

No person over eight years of age shall stand, sit, ride, play or otherwise be upon any spring riding toy within the park. No more than one person under eight years of age shall, at the same time, stand, sit, ride, play or otherwise be upon any spring riding toy within the park at any one time. No person shall permit any child or other person over eight years of age who is in such person's custody or control to stand, sit, ride, play or be upon any spring riding toy within the park. No person shall permit any child or other person eight years of age or under who is in such person's custody or control to stand, sit, ride, play or be upon any spring riding toy within the park whenever any other person is standing, sitting, riding, playing or is otherwise upon

such spring riding toy.

§ 192-15. Horses

No person shall ride a horse, pony, donkey, mule, or the like within the park except in connection with a public game or exhibition, and in such case only when permission has first been obtained from the Mayor or Borough Council by Resolution. The Mayor or Borough Council by Resolution is hereby empowered to grant special permission whenever such game or exhibition will not adversely affect the safety, health or general welfare of persons using the park and will not materially damage the park or the building or improvements thereof.

§ 192-16. Dogs/Domestic Animals [Amended 11-9-1981 by Ord. No. 428]

- A. No person shall permit any dog or other domestic animal under his or her control to urinate or defecate within any play area of the park as hereinabove defined in Section 15 hereof or upon any baseball or any other athletic field within said park. Dog defecation in other areas of the park shall be properly disposed of by the dog owner.
- B. No owner or person in control of any dog or any other domestic animal shall permit said animal to either roam freely or to be under only voice control while in the Borough Park. Said owner and/or person in control shall place said animal under leashed control while within the Borough Park.
- C. The latter provisions of this ordinance may be waived by the Mayor or Borough Council by Resolution during sanctioned dog shows.
- D. Dogs and Domestic Pets other than Service Animals are not permitted within the pool area.

§ 192-17. Rules

- A. A copy of the Park Rules and Regulations from time to time promulgated by Borough Council, the Police Chief and the Mayor shall be duly posted in the park at the main eating pavilion. In addition, a copy of this Ordinance and its amendments which may be adopted from time to time shall be posted at the same location within the park. Any failure upon the part of the Borough to post copies of this Ordinance and Rules and Regulations adopted pursuant to this Ordinance shall not constitute a defense to any enforcement proceedings commenced by the Borough against violators of this Ordinance.
- B. A copy of the Pool Rules and Regulations from time to time promulgated by Borough Council shall be duly posted at the pool at the area by the entrance. Any failure upon the part of the Borough to post copies of this Ordinance and Rules and Regulations adopted pursuant to this Ordinance shall not constitute a defense to any enforcement proceedings commenced by the Borough against violators of this Ordinance.

§ 192-18. Violation/Penalty

Any person who violates any of the provisions of this Ordinance shall, upon summary

conviction before the District Magistrate, or any Court upon hearing or appeal, pay a fine or penalty of not less than \$50 nor more than \$300 and costs of prosecution for each and every offense, or in default thereof, undergo imprisonment in the Berks County Prison for a period not exceeding 10 days; provided, each day's violation of any of the provisions of this Ordinance shall constitute a separate offense. Dog owners are responsible for the actions of their dogs regardless of who is with the animal at the time. The penalties provided for in this Ordinance may be amended by Borough Council by Resolution.

PARKS AND RECREATION AREAS
192 Attachment 1

Fleetwood Community Park Rules and Regulations
Per Ordinance No. 79-417

1. OPEN: 30 minutes before sunrise.
CLOSED 30 minutes after sunset.
(Sunrise and sunset determined by READING EAGLE newspaper)
2. Vehicles are to be parked in designated parking areas only.
3. Any persons destroying, removing or defacing property will be prosecuted.
4. Do not annoy others using the park.
5. Dispose of waste or garbage into trash cans; DON'T LITTER!
6. No fires except charcoal grills and fireplaces for cooking purposes.
7. No beer or alcoholic beverages permitted in park.
8. Obey speed limits.
9. No bicycles within twenty (20) feet of play areas.
10. No one over eight years of age may use the spring riding toys.
11. No horses, ponies, donkeys, or mules allowed in park.
12. All dogs must be leashed. No persons shall permit any dog or domestic animal to urinate or defecate within the play areas.
13. No motorcycles, mopeds, or motorized bicycles are permitted except on designated roadways and parking areas.
14. No motorized carts, snowmobiles, or all-terrain vehicles permitted in the park.
Motorized vehicles for the handicapped are permitted, however.
15. Persons with reservations have priority in using pavilions.

VIOLATORS WILL BE PROSECUTED AND FINED!!

Requests and reservations must be obtained at Borough Hall, 110 West Arch Street, Suite 104, Fleetwood, between the hours 9:30 a.m. and 3:30 p.m. Telephone 944-8220

Chapter 197

PEACE AND GOOD ORDER

§ 197-1. Purpose and Intent

§ 197-2. Prohibited Acts

§ 197-3. Violations and Penalties

§ 197-4. Amendments

§ 197-5. Severability

[HISTORY: Adopted by the Borough Council of the Borough of Fleetwood 10-13-2004 by Ord. No. 607. Amendments noted where applicable.]

197-1 Purpose and Intent

It is the purpose and intent of the Borough to establish an ordinance to preserve the rights of quiet enjoyment of the Borough of Fleetwood.

197-2 Prohibited Acts

It shall be unlawful for any person, persons, firm, corporation, company or association, within the limits of the Borough of Fleetwood, Berks County, Pennsylvania:

- A. To make or cause to be made, or being the owner of any premises or having control thereof, to permit within or on said premises, any loud, boisterous or unseemly noise or disturbances within the Borough or on Borough owned premises located outside the physical boundaries of the Borough to the annoyance of the public, or near to any alley, street, bridge, public passageway or public place whereby the public peace is broken or disturbed or the public is annoyed or offended.
- B. To be guilty of vagrancy or to engage in fighting or to incite others to fight, assault or quarrel, or to engage in any other unlawful act tending to imperil the personal security or safety of any person or persons within the Borough or on Borough owned premises located outside the physical boundaries of the Borough to the annoyance of the public, or near to any alley, street, bridge, public passageway or public place whereby the public peace is broken or disturbed or the public is annoyed or offended.
- C. To endanger or injure any property within the Borough or on Borough owned premises located outside the physical boundaries of the Borough to the annoyance of the public, or near to any alley, street, bridge, public passageway or public place whereby the public peace is broken or disturbed or the public is annoyed or offended.
- D. To loaf, loiter, lounge, stand, or congregate on or otherwise occupy any of the sidewalks, streets, crossings, street corners, bridges, highways or alleys in front of or about any place of business or other public place so as to obstruct the free flow of vehicular and or pedestrian traffic.

- E. To throw, place, discard or be a party to throwing, placing or discarding any garbage, rubbish, paper, refuse or litter of any kind on, upon or adjacent to any road, street, alley, sidewalk, public place or lot or piece of ground within the Borough of Fleetwood or on Borough owned property outside of the physical boundaries of the Borough of Fleetwood.
- F. To nail, tack, hang or otherwise append any sign, notice or advertisement of any kind whatsoever upon any tree, post, pole, or pillar or any description, except on private property and then only by permission of the owner thereof.
- G. To cause any unnecessary and disturbing noise generated or created by a motor vehicle or commercial vehicle, including but not limited to the squealing of tires, backfiring, blowing of a horn, racing of an engine on a public or private property, to the annoyance of peaceable residents nearby or within or near to an alley, street, bridge, public passageway, private lot, or public space whereby the public peace is broken or disturbed or the public is annoyed or offended.
- H. To keep or suffer to remain on any premises any odorous, offensive, or unwholesome matter of any kind or any matter of substance that attracts mice, rats, rodents or insects.

197-3 Violations and Penalties

Any person who shall violate this article shall upon summary conviction thereof, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) nor more than Six Hundred Dollars (\$600.00) and the costs of prosecution, and in default of payment thereof, shall undergo imprisonment in the Berks County Prison for a period not exceeding thirty (30) days. This fine shall be updated as necessary by Resolution of the Council of the Borough of Fleetwood.

197-4 Amendments

Registration and Penalty Fees outlined in this article may be modified by a Resolution, passed and adopted by the Borough Council of Fleetwood.

197-5 Severability

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court or competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.