

CHAPTER 4
CODE ENFORCEMENT

ARTICLE I
BUILDING CODE

Section 101. Election to Administer and Enforce Construction Code
Section 102. Adoption of Uniform Construction Code
Section 103. Administration and Enforcement
Section 104. Board of Appeals
Section 105. Previous and Relevant Ordinances
Section 106. Fees

ARTICLE II
RESERVED

(Reserved)

ARTICLE III
PROPERTY MAINTENANCE

Section 301. Adoption of Property Maintenance Code
Section 302. Amendments made in Property Maintenance Code
Section 303. Related Rights
Section 304. Enforcement
Section 305. State Law Regulations

ARTICLE IV
CIVIL/CRIMINAL ENFORCEMENT PROCEDURE

Section 401. Title
Section 402. Criminal Enforcement Procedure
Section 403. Civil Enforcement Procedure
Section 404. Enforcement Officer(s)
Section 405. Notice of Violation

CODE ENFORCEMENT

Section 406. Court Costs and Attorney's Fees

Section 407. Fines

Section 408. Separate Offenses

Section 409. Judgment

Section 410. Failure to Pay Judgment

Section 411. Authorization of Township Solicitor

Section 412. Existing Ordinances

Section 413. Collection of Fines and Penalties

ARTICLE I
BUILDING CODE

Section 101. Election to Administer and Enforce Construction Code

Ontelaunee Township hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§ 7210.101-7210.1103, as amended from time to time, and its regulations.

Ord. 2004-5, 7/1/2004, §1.

Section 102. Adoption of Uniform Construction Code

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

Ord. 2004-5, 7/1/2004, §2.

Section 103. Administration and Enforcement

Administration and enforcement of the Code within Ontelaunee Township shall be undertaken in any of the following ways as determined by the governing body of the township from time to time by resolution:

- A. By the designation of an employee of Ontelaunee Township to serve as the municipal code official to act on behalf of Ontelaunee Township;
- B. By the retention of one or more construction code officials or third-party agencies to act on behalf of Ontelaunee Township;
- C. By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an intermunicipal agreement;
- D. By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of Ontelaunee Township;
- E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

Ord. 2004-5, 7/1/2004, §3.

CODE ENFORCEMENT

Section 104. Board of Appeals

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

Ord. 2004-5, 7/1/2004, §4.

Section 105. Previous and Relevant Ordinances

- A. All building code ordinances or portions of ordinances which were adopted by Ontelaunee Township on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.
- B. All building code ordinances or portions of ordinances which are in effect as of the effective date of this ordinance and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.
- C. All relevant ordinances, regulations and policies of Ontelaunee Township not governed by the Code shall remain in full force and effect.

Ord. 2004-5, 7/1/2004, §5.

Section 106. Fees

Fees assessable by Ontelaunee Township for the administration and enforcement undertaken pursuant to this ordinance and the Code shall be established by the governing body by resolution from time to time.

Ord. 2004-5, 7/1/2004, §6.

ARTICLE II

RESERVED

Ord. 1992-6, 8/13/1992, §1-5; Ord. 1992-10, 12/31/1992, §1-4; repealed and replaced by Ord. 2021-3, 4/1/21, §1-2.

ARTICLE III**PROPERTY MAINTENANCE****Section 301. Adoption of Property Maintenance Code**

The Township of Ontelaunee hereby adopts, for the purpose of establishing rules and regulations for the maintenance of all structures, including administration, enforcement and penalties, the property maintenance code known as the 2015 International Property Maintenance Code as published by the International Code Council save and except such portions as are deleted, modified or amended by Ordinance, incorporated as fully as if set out at length herein, as the Property Maintenance Code of the Township of Ontelaunee, Berks County, Pennsylvania for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code Three copies of the 2015 International Property Maintenance have been and are now filed in the office of the Township Secretary.

Ord. 2010-5, 5/6/2010, §1; as amended by Ord. 2018-15, 12/6/2018, §1.

Section 302. Amendments made in Property Maintenance Code

The following sections of the 2015 International Property Maintenance Code are hereby amended and modified as set forth herein:

Section 101.1	Insert "Township of Ontelaunee;"
Section 102.3	Delete the text in this Section and replace with the following: Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the effective International Existing Building Code, International Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, International Plumbing Code and NFPA 70 and as adopted by the Pennsylvania Uniform Construction Code as adopted by the Township of Ontelaunee. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Township of Ontelaunee Zoning Ordinance.
Section 103	Retitled to "Property Maintenance Code Official"
Section 103.1	Delete the text in this Section and replace with the following: The office of Property Maintenance Code Official is hereby

CODE ENFORCEMENT

	created and the executive official(s) in charge thereof shall be known as the Property Maintenance Code Official. The Property Maintenance Code Official is also referred to herein at times as the code official. The Property Maintenance Code Official is also referred to herein at times as the code official or code enforcement official. The Property Maintenance Code Official shall be charged with enforcement of this Ordinance.
Section 103.2	Delete the text in this section and replace with the following: The Property Maintenance Code Official shall be appointed by the Board of Supervisors from time to time and shall serve at the pleasure of the Board of Supervisors on behalf of the Township.
Section 103.5	Delete the text in this Section and replace with the following: The fees for activities and services performed by the Township in carrying out its responsibilities under this Code shall be in accordance with a fee schedule adopted by the Township, by resolution, from time to time.
Section 104.3.1	<p>Insert title – Refusal of Entry.</p> <p>Insert text:</p> <p>If any owner, occupant or other person in charge of a structure subject to the provision of this code refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure or premises where inspection authorized by this code is sought, the administrative authority may promptly apply for a search or inspection warrant to a court of competent jurisdiction and shall supply all necessary affidavits and testimony to indicate that there is a reasonable or probable cause to conduct an inspection. For the purpose of this section, a reasonable or probable cause to gain access for an inspection shall include without being limited to the following:</p> <ol style="list-style-type: none">1. That the inspection of the area is part of a planned routine inspection being conducted pursuant to a systematic or concentrated code enforcement program in that portion of the Township; or2. That the Property Maintenance Code Official, after investigation or upon information received, has knowledge, information or a reasonable belief that a violation of this code or other codes and ordinances of the Township exist; or3. That such entry is for the purpose of inspecting a previous notice of violation; or;4. That the Property Maintenance Code Official has received a complaint concerning a violation on or within the premises; <p>or</p>

	<p>5. That such entry is necessary to building, structure, premises, dwelling or dwelling units meet the standards of this code and building, fire, and health codes and for the safety and welfare of the public.”</p>
Section 104.3.2	<p>Insert title – Right of Entry by Owner.</p> <p>Insert text:</p> <p>Every occupant of a dwelling unit, building, structure or premises shall give the owner thereof, or his agent or employee access to any part of such dwelling, dwelling unit, building, structure or premises, at all reasonable times for the purpose of conducting inspections to determine whether or not violation of the code may exist, or for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this code or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this code.</p>
Section 104.3.3	<p>Insert title – Notification of Tenants.</p> <p>Insert text:</p> <p>Every owner of a dwelling unit, building, structure or premises shall give the tenants thereof notice of an inspection and obtain their authorization to grant a code official entry to their unit. If the tenant(s) object(s) to entry by the code official, the owner shall so notify the code official.</p>
Section 104.6	Retitled to Property Maintenance Code Official’s Records.
Section 106.3	<p>Delete the text in this Section and replace with the following:</p> <p>Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a summary offense and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official or any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction is to enter upon the property in violation and abate violations such as securing a structure, mowing the grass, cutting the weeds and removing trash and debris, for all other violations the code official or jurisdiction may institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.</p>
Section 106.4	<p>Delete the text in this Section and replace with the following:</p> <p>Any person who violates any provision of this Code, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction</p>

CODE ENFORCEMENT

	documents or directive of the Property Maintenance Code Official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a summary offense, punishable by a fine of not more than \$1,000.00 per violation, plus costs and restitution. Each section of this code that is violated shall constitute a separate offense punishable by a separate fine as set forth herein. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
Section 107.1	<p>Delete the text in this Section and replace with the following: Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code.</p> <p>Notices for condemnation procedures shall also comply with Section 108.3.</p> <p>EXCEPTIONS:</p> <ol style="list-style-type: none">1. Open and unsecure. Notice is not required whenever a property is open and unsecure and the code official has determined that the property shall be secured. The code official may order the structure secured.2. Transfer of property. Notice shall not be required for violation of Section 107.5
Section 107.3	<p>Delete the text in this Section and replace with the following: Such notice shall be deemed to be properly served if a copy thereof is:</p> <ol style="list-style-type: none">1. Delivered personally;2. Sent by certified mail, first-class mail or email addressed to the last known address and/or a copy thereof posted in a conspicuous place in or about the structure affected by such notice.3. Service upon any executive officer of a corporation shall be a sufficient, but not the exclusive method of service upon the corporation. Service upon any partner of a partnership shall be a sufficient but not the exclusive method of service upon the partnership.
Section 108.2	Delete the text in this Section and replace with the following: If the structure is vacant, open and unsecure, and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a

	placard of condemnation on the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.
Section 108.2.1	This Section shall remain unchanged
Section 108.4.1	Delete the text in this Section and replace with the following: The code official shall remove the condemnation placard whenever, upon inspection, the defect or defects upon which the placard was based have been eliminated and with the receipt of payment in accordance with the fee schedule duly adopted by the Township of Ontelaunee. Any person who defaces, covers or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.
Section 110.1	Add text at the end of the Section: Demolition shall be in accordance with the Pennsylvania Uniform Construction Code as adopted by the Township.
Section 111.2	Delete the text in this Section and replace with the following: The Board of Appeals shall be the Board of Supervisors of Ontelaunee Township.
Section 111.2.1	Delete this Section in its entirety.
Section 111.2.2	Delete the text in this Section and replace with the following: The Chairman of the Board of Appeals shall be the Chairman of the Board of Supervisors.
Section 111.2.3	Shall be renumbered as Section 111.2.1.
Section 111.2.4	Delete this Section in its entirety.
Section 111.2.5	Delete this Section in its entirety.
Section 111.3	Delete the text in this Section and replace with the following: Hearing shall be conducted at the regularly scheduled Meeting of the Board of Supervisors. Appeals received less than fourteen (14) days prior to the next scheduled meeting, will be heard at the following month's meeting.
Section 112	Delete the text in this Section and replace with the following: Stop-work orders shall be governed by the Pennsylvania Uniform Construction Code as adopted by the Township.
Section 202	Add the following: Noxious Weeds – Weeds listed by the Commonwealth of Pennsylvania through the Department of Agriculture as being noxious.
Section 302.4	Delete the text in this Section and replace with the following: All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten inches (10") noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided, however, this term shall not include culti-

CODE ENFORCEMENT

	<p>vated flowers and gardens or agricultural crops.</p> <p>Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.</p>
Section 304.14	<p>Delete the text in this Section and replace with the following: During the period from April 1 to September 30, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.</p> <p>Exception: Screens shall not be required where approved means such as air curtains or insect repellent fans are employed.</p>
Section 602.3	<p>Delete the text in this Section and replace with the following: Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to May 1 to maintain a minimum temperature of 68° F. (20° C.) in all habitable rooms, bathrooms and toilet rooms.</p> <p>Exceptions:</p> <ol style="list-style-type: none"> 1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required, provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code. 2. In areas where the average monthly temperature is above 30° F. (-1° C.) a minimum temperature of 65° F. (18° C.) shall be maintained.
Section 602.4	<p>Delete the text in this Section and replace with the following:</p>

	<p>Indoor occupiable work spaces shall be supplied with heat during the period from September 1 to May 1 to maintain a minimum temperature of 65° F. (18° C.) during the period the spaces are occupied.</p> <p>Exceptions:</p> <ol style="list-style-type: none"> 1. Processing, storage and operation areas that require cooling or special temperature conditions. 2. Areas in which persons are primarily engaged in vigorous physical activities.
Various	The International Property Maintenance Code as adopted by the Township of Ontelaunee shall delete and replace all references to "[THE BUILDING OFFICIAL]", "[DEPARTMENT]" or "[PROPERTY MAINTENANCE DIVISION]" with the term "Property Maintenance Code Official".
Various	The International Property Maintenance Code as adopted by the Township of Ontelaunee shall delete and replace all references to "[THE GOVERNING BODY]" with the term "the Board of Supervisors".

Ord. 2010-5, 5/6/2010, §2; as amended and restated in Ord. 2018-15, 12/6/2018, §1 and §2.

Section 303. Related Rights

That nothing in this Ordinance or in the Property Maintenance Code hereby shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 302 and Section 303 of this Ordinance; nor shall any just or legal right or remedy of an character be lost, impaired or affected by this Ordinance.

Ord. 2010-5, 5/6/2010, §3; as affirmed by Ord. 2018-15, 12/6/2018 §3.

Section 304. Enforcement

This Ordinance shall be enforced by the Township Property Maintenance Code Official or Township Code Enforcement Officer.

Ord. 2010-5, 5/6/2010, §4; as amended by Ord. 2018-15, 12/6/2018, §4.

Section 305. State Law Regulations

CODE ENFORCEMENT

In all matters that are regulated by the law of the Commonwealth of Pennsylvania or by regulations of departments or agencies of the Commonwealth promulgated by authority of law, such laws or regulations, or other ordinances of the Township, as the case may be, shall control where the requirements thereof are the same as or in excess of the provisions of this Ordinance. The Ordinance shall control in all cases where the State requirements, or the requirements of other ordinances of this Township, are not as strict as those contained in this Ordinance.

Ord. 2010-5, 5/6/2010, §5; as retitled and amended by Ord. 2018-15, 12/6/2018, §5 and §6.

ARTICLE IV

CIVIL/CRIMINAL ENFORCEMENT PROCEDURE

Section 401. Title

This Ordinance shall be known as the “Civil/Criminal enforcement Procedure Ordinance of Ontelaunee Township” and shall govern the imposition of fines and penalties for violation of the Ordinances of the Township.

Ord. 2001-2, 7/12/2001, §1.

Section 402. Criminal Enforcement Procedure

- A. Effective upon the passage of this Ordinance, any Township Ordinance regulating buildings, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, water, air or noise pollution, shall be enforced through a Summary Offense procedure initiated before a District Justice in the same manner provided for the enforcement of Summary Offenses under the Pennsylvania Rules of Civil Procedure, pursuant and authorized by Section 1601 (c.1)(2) of Act 172 of 1996.
- B. The Board of Supervisors hereby adopts the following schedule for fines for violations of Township Ordinances referred to in Section 402.A above:

1 st violation of a particular ordinance	\$500.00
2 nd violation of a particular ordinance	\$750.00
3 rd and all subsequent violations of a particular ordinance	\$1,000.00

Ord. 2001-2, 7/12/2001, §2.

Section 403. Civil Enforcement Procedure

Effective upon the passage of this Ordinance, any ordinance other than those ordinances referred to by subject matter contained in Section 402.A above, shall be enforced through a civil enforcement proceeding to be conducted by the Township as follows:

- A. When it has been determined that a Township Ordinance has been violated, the Supervisors shall impose a penalty for the violation of said Ordinance pursuant to Section 403.F below.

CODE ENFORCEMENT

- B. In the event the penalty imposed by the Board of Supervisors is not voluntarily paid to the Township, the Township shall initiate a civil enforcement proceeding before a District Justice.
- C. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.
- D. In addition to or in lieu of civil actions before a District Justice, the Township may at its option enforce any ordinance violation in a court of equity.
- E. In any case where a penalty for a violation of a Township Ordinance has not been timely paid and person(s) and/or entity upon whom the penalty imposed is found to have been liable therefore in a civil proceeding, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney's fees incurred by the Township in the enforcement proceedings.
- F. The Board of Supervisors hereby adopts the following schedule of fines for violations of Township Ordinances referred to Section 403 above:

1 st violation of a particular ordinance	\$200.00
2 nd violation of a particular ordinance	\$400.00
3 rd and all subsequent violations of a particular ordinance	\$600.00

Ord. 2001-2, 7/12/2001, §3.

Section 404. Enforcement Officer(s)

The Board of Supervisors shall, from time to time by resolution, appoint Township Enforcement Officer(s) for the enforcement of the Township's Ordinances. Such Enforcement Officer(s) are authorized and directed to institute civil proceedings or criminal proceedings as appropriate as required to achieve compliance with the Ordinances of the Township.

Ord. 2001-2, 7/12/2001, §4.

Section 405. Notice of Violation

After the Township Enforcement Officer has made an initial determination of an Ordinance violation, he shall promptly serve notice of said violation to the person(s) and/or entity causing the violation and further establish the fine for said violation pursuant to the schedule of fines for violations, as more fully set forth in Section 402.B and Section 403.F above. Where a penalty for a violation of a Township Ordinance is not paid with-

in thirty (30) days from the date of notice, the Township Enforcement Officer shall initiate the appropriate enforcement proceeding.

Ord. 2001-2, 7/12/2001, §5.

Section 406. Court Costs and Attorney's Fees

In each action the Enforcement Officer shall, pursuant to the provisions of Section 1601(c.1)(1) of the Act (53 P.S. Section 66601(c)), include a demand for all Court costs and reasonable attorney's fees incurred by the Township.

Ord. 2001-2, 7/12/2001, §6.

Section 407. Fines

The amount of fines as set forth in the complaint filed with the District Justice shall be determinative upon the trier of facts, including the District Justice and the Court of Common Pleas (on appeal).

Ord. 2001-2, 7/12/2001, §7.

Section 408. Separate Offenses

For any person(s) and/or entity who is not in compliance with any Township Ordinance(s), each continuing day of violation or of non-compliance shall be a separate offense for which the Enforcement Officer may seek separate fines and costs in the same or separate proceedings.

Ord. 2001-2, 7/12/2001, §8.

Section 409. Judgment

No judgment may be imposed pursuant to this Ordinance until a determination has been made by the appropriate District Justice, or if the District Justice decision is appealed, the Court of Common Pleas.

Ord. 2001-2, 7/12/2001, §9.

Section 410. Failure to Pay Judgment

If the person(s) and/or entity fails to pay a final judgment, Ontelaunee Township may enforce the judgment obtained pursuant to the Pennsylvania Rules of Civil Procedure.

CODE ENFORCEMENT

Ord. 2001-2, 7/12/2001, §10.

Section 411. Authorization of Township Solicitor

Upon the direction of the Board of Supervisors, the Township Solicitor shall assist the Township Enforcement Officer in the enforcement proceedings and in obtaining a judgment before the District Justice or the Court of Common Pleas, or appellate courts, and in the filing of the judgment or in execution upon the judgment.

Ord. 2001-2, 7/12/2001, §11.

Section 412. Existing Ordinances

- A. With regard to Ordinances enacted prior to July 12, 2001, those regulating building, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, water, air or noise pollution, shall be deemed automatically amended so that they shall be enforced by an action brought before a District Justice in the same manner provided for the enforcement of summary offenses in accordance with Section 402.
- B. All other Ordinances enacted prior to July 12, 2001, shall be deemed automatically amended so that they shall be enforced through a civil enforcement proceeding in accordance with Section 403.

Ord. 2001-2, 7/12/2001, §12.

Section 413. Collection of Fines and Penalties

All fines and penalties collected for the violation of any Township Ordinance shall be paid to the Township Treasurer.

Ord. 2001-2, 7/12/2001, §13.