

ORDINANCE NO. 2009-2

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF NESQUEHONING, CARBON COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF NESQUEHONING, AND PROVIDING ADOPTING THE STANDARDS SET FORTH IN “UNIFORM CONSTRUCTION CODE” PERTAINING TO REGULATING “UNCERTIFIED BUILDINGS” WITHIN THE BOROUGH OF NESQUEHONING AND PROVIDING PENALTIES FOR ANY VIOLATION OF SAID REGULATIONS.

BE IT ORDAINED AND ENACTED by the Council of the Borough of Nesquehoning, Carbon County, Pennsylvania and it is hereby Ordained and Enacted by authority of the same as follows:

ARTICLE 1

The Borough of Nesquehoning hereby elects to adopt, administer and enforce the provisions contained in the Pennsylvania Construction Code Act, Act 45 of 1999, specifically pertaining to “Uncertified Buildings”, 345 Pa.C.S. Section 7210.902(b) and the Regulations made pursuant thereto.

ARTICLE 2

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

ARTICLE 3

Uncertified Buildings shall meet the following requirements:

- (a) Maximum story height, minimum allowable construction type based on floor area, vertical opening and shaft protection requirements, means of egress requirements, pertaining to minimum number of exits, maximum travel distances to exits, means of egress illumination, minimum egress widths and heights for exit doors, exit stairs, exit ramps and exit corridors requirements under the “International Building Code”.
- (b) Fire Safety requirements in the “International Building Code” for fire alarms, fire extinguishers, heat and smoke detectors, automatic sprinkler systems and occupancy and incidental use separations. The following also applies:
 - (1) If construction began on a building before May 19, 1984, the installation of automatic sprinkler systems is not required.

- (2) If construction began on a building after May 19, 1984, automatic sprinklers are only required if the building is classified in use groups E (educational), H (high-hazard), I (institutional), or R-1 or R-2 (residential) or if the building has occupied floors more than 75 feet above the lowest level of fire department access. However, buildings in use groups R-1 and R-2 which do not have occupied floors more than 75 feet above lowest level of fire department access may, instead of installing automatic sprinkler systems, install hard-wired interconnected heat and smoke detectors in all rooms and spaces, whether they are occupied or unoccupied.
 - (3) If construction of a building began after May 18, 1984, automatic sprinkler installation shall be completed within 5 years of December 22, 2005 or any certificate of occupancy issued shall be invalid.
- (c) Accessibility requirements are applicable as follows:
- (1) If construction of an uncertified building began before September 1, 1965, no accessibility requirements shall be imposed by the Borough.
 - (2) If construction of a building began after August 31, 1965 and before February 18, 1989, and if the building is a state-owned building, a restaurant or a retail commercial establishment, the building shall have at least one accessible main entrance, an accessible route from the accessible entrance to any public spaces on the same level as the accessible entrance and, if toilet rooms are provided, the building shall have at least one toilet room for each sex or a unisex toilet room complying with the accessibility requirements of the “International Building Code” shall be met.
 - (3) If construction of the building began after February 17, 1989, all accessibility requirements of the “International Building Code” shall be met.
- (d) Structural requirements shall not be imposed unless the Borough determines that the building has defects that are defined as dangerous in Section 202 of the “International Building Code”. If the building is dangerous, the Borough may impose only those requirements minimally necessary to remove danger to the building’s occupants.

ARTICLE 4 VIOLATIONS AND PENALTIES.

- A. Any individual firm, corporation or entity who violates, causes or permits the violation of any provision of this ordinance shall be subject to a criminal fine of not less than \$100 nor more than \$1,000 per violation plus court costs, including reasonable attorney’s fees incurred by the Borough, and in default of payment of said fines and costs, to imprisonment not to exceed 30 days. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this ordinance found to have been violated. Enforcement of

this ordinance shall be by action brought before the district court in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. In addition to any other remedy available under law, the Borough may enforce this ordinance by an action in equity. All fines and penalties collected for violation of this ordinance shall be paid to the Borough Treasurer. The initial determination of ordinance violation and the service of notice of violation are hereby delegated to the Code Official/Building Inspector, the Zoning Officer, the Code Enforcement and their designees and to any other officer or agent that the Borough Council shall deem appropriate.

- B. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this ordinance found to have been violated.
- C. All fines and penalties for the violation of this ordinance shall be paid to the Borough Treasurer.

ARTICLE 5 REPEALER.

All existing Ordinances of Nesquehoning Borough, or parts thereof, inconsistent with this Ordinance or any part thereof, are hereby repealed or amended to the extent specified herein.

ARTICLE 6 EFFECTIVE DATE

This Ordinance shall become effective upon adoption hereof.

ORDAINED and ENACTED by the Council of Nesquehoning Borough, this 24th day of June, 2009.

BOROUGH OF NESQUEHONING

By: *Donato DeMarco* .

ATTEST: *RoniSue Ahner* .
Secretary

Examined and Approved this 24th day of June , 2009.

K. Tony Walck .
Mayor