

**CHAPTER 5**

**CODE ENFORCEMENT**

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## **PART I**

### **COSTS**

#### **SECTION 5-101. Purpose.**

The purpose of this Chapter and Part is to establish the costs to be imposed upon anybody charged with the violation of any Borough ordinance. It is the express intention that in the event a citation is issued because any fine or penalty is not paid upon notice, that the cost of issuing such citation or other legal process, including but not limited to attorneys' fees and court costs, shall be imposed upon the violator.

*(Ord. 331, 10/05/1993, §1, Ord. 372, 6/6/2006)*

#### **SECTION 5-102. Imposition of Costs.**

In any case in which a Borough ordinance has been violated and such violator has been issued a notice of a fine and such fine remains unpaid, then upon the issuance of citation or other legal process, such citation or other legal process shall contain as costs a fee in the amount of \$100.00 which fee shall be payable to the Borough of Harmony in all cases. To the extent permitted by laws, the violator shall be obligated to reimburse the costs of enforcing any ordinance including attorneys' fees.

*(Ord. 331, 10/05/1993, §2, Ord. 372, 6/6/2006)*

**PART II**  
**CONSTRUCTION CODE**

**§5-201. Pennsylvania Construction Code Act: Election to Administer and Enforce.**

1. **Election.** Pursuant to §501 of the Pennsylvania Construction Code Act, 35 P.S. §7210.501, as amended, the Borough hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, 35 P.S. §7210.101, as amended.
2. **Methods for Administration and Enforcement.** The Borough shall administer and enforce the Pennsylvania Construction Code Act under one or more of the methods established in §501(b) of the Pennsylvania Construction Code Act, 35 P.S. §7210.501(b), as amended, as determined from time to time by resolution of the Borough Council; provided that any Borough administration and enforcement of the Pennsylvania Construction Code Act through an agreement with one or more municipalities or the Pennsylvania Department of Labor and Industry shall be subject to the requirements of the Intergovernmental Cooperation Act, 53 Pa.C.S.A. §2301 *et seq.*, as amended.

**§5-202. Uniform Construction Code Adoption.**

The Borough hereby adopts the Uniform Construction Code, 34 Pa.Code, Part XIV, as amended, as promulgated by the Pennsylvania Department of Labor and Industry, as the official Construction Code of Harmony Borough for regulating and governing the construction, alteration, repair, movement, equipment, removal, demolition, location, maintenance, occupancy or change of occupancy of every building or structure; and each and all of the regulations, provisions, penalties, conditions and terms of said Uniform Construction Code on file in the Borough Office are hereby referred to, adopted, and made a part hereof, as if fully set out in this Part, with any additions, insertions, deletions and changes, if any, prescribed in this Part.

**§5-203. International Codes: Adoption and Modification.**

1. **Adoption of International Codes.** Pursuant to §403.21 of the Uniform Construction Code, 34 Pa.Code §403.21, as amended, the Borough hereby adopts the 2003 editions of the following International Codes, as published by the International Code Council, Inc., as part of the Uniform Construction Code and each and all of the regulations, provisions, penalties, conditions and terms of the following International Codes, on file in the Borough Office, are hereby referred to, adopted, and made a part hereof, as if fully set out in this Part with the additions, insertions, deletions and changes, if any, prescribed in the Uniform Construction Code and/or this Part.

- A. International Fire Code.
2. **Modifications.** The following Sections and subsections of the above-referenced International Codes, 2003 Editions, are hereby added, inserted, deleted, restated or changed as set forth below.

A. **International Fire Code.**

- (1) **Section 101.1:** §101.1 is amended by inserting "Commonwealth of Pennsylvania" in the space provided.
- (2) **Section 105.1:** §105.1 is amended by inserting the following sentence: "Fees for applications, permits and inspections referenced in this code shall be established, from time to time, by resolution of the Borough Council."
- (3) **Section 108:** §108 is restated in its entirety to include the following reference: "See §5-206 of the Harmony Borough Code of Ordinances, Violations and Penalties."
- (4) **Section 109.3:** §109.3 is restated in its entirety to include the following reference: "See §5-205 of the Harmony Borough Code of Ordinances, Board of Appeals."
- (5) **Section 111.4:** §111.4 is restated in its entirety to include the following reference: "See §5-206 of the Harmony Borough Code of Ordinances, Violations and Penalties."
- (6) **Section 3204.3.1.1:** §3204.3.1.1 is amended by inserting the following text in the space provided: "Storage limits shall be in accordance with NFPA 55, Standard for Storage, Use and Handling of Compressed Gasses and of the Uniform Construction Code Cryogenic Fluids in Portable and Stationary Containers, Cylinders and Tanks, as revised."
- (7) **Section 3404.2.9.5.1:** §3404.2.9.5.1 is amended by inserting the following text in the space provided: "Storage limits shall be in accordance with NFPA 30, Flammable and Combustible Liquids Code, as revised."
- (8) **Section 3406.2.4.4:** §3406.2.4.4 is amended by inserting the following text in the space provided: "Storage limits shall be in

accordance with NFPA 30, Flammable and Combustible Liquids Code, as revised.”

- (9) **Section 3804.2:** §3804.2 is amended by inserting the following text in the space provided: “Storage limits shall be in accordance with NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG) US Standards), as revised.”

**§5-204. Borough Building Code Official.**

The Pennsylvania Construction Code Act, 35 P.S. §7210.101 *et seq.*, as amended, and the Uniform Construction Code, 34 Pa.Code, Part XIV, as amended, shall govern the building code official employed and/or retained by the Borough to administer and enforce the Pennsylvania Construction Code Act and the Uniform Construction Code (the “Borough building code official”), and shall be further supplemented as follows:

- A. **Delegation of Duties.** The Borough building code official shall not, without the prior approval of the Borough Council or its designee:
- (1) Appoint, retain or otherwise employ a deputy building official, related technical officers, inspectors, plan examiners or other employees.
  - (2) Delegate his/her duties to a construction code official or current code administrator.
- B. **Records.** The Borough building code official shall keep official records of applications received, permits and certifications issued, fees collected, reports of inspections, and notices, modifications and orders issued. Such records shall be maintained as official records of the Borough and shall only be disposed of in accordance with applicable law.

**§5-205. Board of Appeals.**

1. The Pennsylvania Construction Code Act, 35 P.S. §7210.101 *et seq.*, as amended, and the Uniform Construction Code, 34 Pa.Code, Part XIV, as amended, shall govern the Borough Board of Appeals established pursuant to §501(c) of the Pennsylvania Construction Code Act, 35 P.S. §7210.501(c), as amended, and shall be further supplemented as follows:
  - A. **Application for Appeal.** Any applicant or person aggrieved by a decision of a Borough official related to the Uniform Construction Code or a notice or order issued under the Uniform Construction Code shall have the right

to appeal to the Board of Appeals of Harmony Borough established under this Section, provided that a written application for an appeal is filed within 10 days after receipt of said decision, notice or order, along with payment of an appeal hearing fee in an amount set from time to time by resolution of the Borough Council. An application for appeal shall be based on a claim that the true intent of the Pennsylvania Construction Code Act, or the Uniform Construction Code, or this Part, or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of the Pennsylvania Construction Code Act, or the Uniform Construction Code, or this Part do not fully apply, or an equivalent form of construction is to be used. Failure to submit an application for appeal within the time limit established by this Section shall constitute acceptance of the Borough official's decision and/or a waiver of the individual's right to appeal.

B. **Establishment.** In order to hear and decide appeals of orders, decisions or determinations made by Borough officials relative to the application and interpretation of the Pennsylvania Construction Code Act and the Uniform Construction Code, as well as requests for variances or extensions of time thereunder, there shall be a Board of Appeals for Harmony Borough pursuant to §501(c) of the Pennsylvania Construction Code Act, 35 P.S. §7210.501(c), as amended. The Borough may, by resolution, appoint a Board of Appeals of another municipality to serve as the Harmony Borough Board of Appeals or it may create a board specific to Harmony. If the Borough creates a Harmony Borough Board of Appeals, it shall use the following criteria:

a. **Membership.** The Borough Board of Appeals shall consist of three persons appointed by the Borough Council to hold office at the pleasure of the Borough Council. Each member of the Board of Appeals shall be appointed for a term of three years or until his/her successor is appointed and qualified, which term shall expire on the first Monday of January of the year designated for the expiration of his/her term, except that the terms of the members first appointed pursuant to this Part shall be so fixed so that the term of office of one member shall expire each year. An appointment to fill a vacancy shall be only for the unexpired term.

b. **Alternate Members.** The Borough Council shall appoint two alternate members who shall be called to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for a term of two years or until his/her successor is appointed and qualified, which term shall expire on the first Monday of January of the year designated for the expiration of his/her term, except that the terms of the alternate members first appointed pursuant to this Part shall be so fixed so that the term of

office of one alternate member shall expire each year. An appointment to fill a vacancy shall be only for the unexpired term.

c. **Qualifications.** Each member or alternate member of the Board of Appeals shall satisfy the following qualifications:

(1) A member of the Board of Appeals shall be qualified pursuant to the requirements of §403.121(c)(1) of the Uniform Construction Code, 34 Pa.Code §403.121(c)(1), as amended.

(2) Members of the Borough Council and its code administrators shall not serve on the Board of Appeals pursuant to §403.121(c)(3) of the Uniform Construction Code, 34 Pa.Code §403.121(c)(3), as amended.

(3) A qualified person who resides outside of the Borough may be appointed as a member of the Board of Appeals when the Borough Council cannot find a person residing within the Borough who satisfies the requirements of §403.121(c) of the Uniform Construction Code, 34 Pa.Code §403.121(c), as amended.

d. **Regulations and Procedures.** The Board of Appeals is authorized to establish policies and procedures necessary to carry out its duties as long as any such policies and procedures do not conflict with the provisions of the Pennsylvania Construction Code Act, the Uniform Construction Code, this Part or any other ordinance of the Borough.

e. **Organization of Board.**

(1) The Board of Appeals shall elect from its own membership a Chairperson, Vice-Chairperson and such other officers as it deems appropriate, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing or meeting and the taking of any action, a quorum shall be not less than a majority of all the regular members of the Board.

(2) If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairperson of the Board of Appeals shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the

matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this Section shall be made on a case-by-case basis.

- (3) The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit a report of its activities to the Borough Council as requested.

- C. **Hearing Procedures.** All hearings before the Board of Appeals shall be open to the public. The appellant, the appellant's representative, the Borough's representative and any applicant or person aggrieved pursuant to Subsection A above shall be given the opportunity to be heard. The Chairperson of the Board of Appeals, or its counsel, shall have the power and duty to direct the meeting, rule upon the acceptance of evidence and oversee the record of all proceedings. These hearing procedures shall not require compliance with the strict rules of evidence, but shall mandate that only relevant information be received.
- D. **Jurisdiction and Powers.** The Board of Appeals shall have the powers and duties as provided by the Pennsylvania Construction Code Act, 35 P.S. §7210.101 et seq., as amended, the Uniform Construction Code, 34 Pa.Code, Part XIV, as amended, this Part and any other ordinances adopted from time to time by the Borough Council.
- E. **Assignment of Additional Duties and Responsibilities.** The Board of Appeals shall have such other duties and responsibilities as may be assigned to it from time to time by appropriate action of the General Assembly of the Commonwealth of Pennsylvania or the Borough Council.

#### **§5-206. Violations and Penalties.**

1. **General.** Any person who violates a provision of the Uniform Construction Code or the codes adopted thereunder, or this Part, or who fails to comply with any of the requirements thereof, or who erects, installs, alters, repairs or does work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under provisions of the Uniform Construction Code or the codes adopted thereunder, or this Part, shall be guilty of a summary offense and subject to such penalties and costs as established in §903 of the Pennsylvania Construction Code Act, 35 P.S. §7210.903, as amended, including reasonable attorney fees incurred by the Borough. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of the Uniform Construction Code, or the codes adopted thereunder, or this Part, found to have been violated. The Borough may also commence appropriate actions in equity, at law or otherwise to prevent, restrain, correct,



enjoin, or abate violations of the Uniform Construction Code, the codes adopted thereunder, or this Part, any action taken by the Borough in the prosecution of a violation of the Uniform Construction Code, the codes adopted thereunder, or this Part and any costs incurred by the Borough related thereto shall be charged against the real estate upon which the violation exists and shall be a municipal lien upon such real estate.

2. **Stop-Work Order.** Any person who continues any work after having been served with a stop-work order under the Uniform Construction Code, or the codes adopted thereunder, or this Part, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a summary offense and subject to such penalties as established in §903 of the Pennsylvania Construction Code Act, 35 P.S. §7210.903, as amended. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of the Uniform Construction Code, or the codes adopted thereunder, or this Part, found to have been violated. Any action taken by the Borough in the prosecution of a violation under the Uniform Construction Code, the codes adopted thereunder, or this Part, and any costs incurred by the Borough related thereto shall be charged against the real estate upon which the violation exists and shall be a municipal lien upon such real estate.

**§5-207. Permit Hours.**

The operation of heavy construction or excavation machinery (including but not limited to bulldozers, highlifts, backhoes, trucks, power shovels, pumps and jack hammers) and the use of construction equipment such as saws, drills or other types of machinery used outside a structure in conjunction with work requiring a building permit shall be prohibited when it is determined by the Borough Building Code Official that the noise is sufficient to disturb the peace and tranquility of the general public. This restriction shall be enforced throughout the entire Borough between the hours of 7:00 p.m. to 7:00 a.m., Mondays through Saturday and all day Sunday and Federally designated legal holidays, except in cases of emergencies involving life or property as designated by emergency personnel.

**§5-208. More Restrictive Provisions to Apply.**

Unless otherwise provided in the Pennsylvania Construction Code Act, or the Uniform Construction Code, or otherwise stated herein, when the provisions of this Part are in conflict with other ordinances of the Borough or any other applicable codes, the more stringent code or ordinance shall apply.

**§5-209. Severability.**

If any section, subsection, sentence, clause or provision of this Part or the codes adopted hereunder is found to be invalid, such decision or decisions shall not affect the validity of

the remaining portions of this Part or the remaining provisions of the codes adopted hereunder.” (*Ord. 3xx, 04/01/2008*)