

## **Chapter 5**

### **Code Enforcement**

#### **Part 1**

#### **Construction Code**

##### **A. Uniform Construction Code**

§5-101. Enactment of the Uniform Construction Code

§5-102. Municipal Administration

§5-103. Administration and Enforcement

§5-104. Establishment of a Board of Appeals

§5-105. Fees

##### **B. Board of Appeals**

§5-111. Joint Appeals Board



**Part 1****Construction Code****A. Uniform Construction Code****§5-101. Enactment of the Uniform Construction Code.**

The Borough of Clarks Green 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. 2-2004, 6/14/2004, §1)*

**§5-102. Municipal Administration.**

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 the Borough of Clarks Green.

*(Ord. 2-2004, 6/14/2004, §2)*

**§5-103. Administration and Enforcement.**

Administration and enforcement of the Code within the Borough of Clarks Green shall be undertaken in any of the following ways as, from time to time, determined by the Borough Council of Clarks Green Borough by resolution:

A. By the designation of an employee of the Borough of Clarks Green to serve as the municipal code official to act on behalf of the Borough of Clarks Green.

B. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Borough of Clarks Green.

C. By agreement with one or more other municipalities for the joint administration and enforcement of the Pennsylvania Construction Code Act through an intermunicipal agreement.

D. By entering into a contract with another municipality for the administration and enforcement of the Pennsylvania Construction Code Act on behalf of the Borough of Clarks Green.

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 and two-family dwelling units and utility and miscellaneous use structures.

*(Ord. 2-2004, 6/14/2004, §3)*

**§5-104. Establishment of a Board of Appeals.**

A Board of Appeals shall be established by resolution of the Borough Council of Clarks Green Borough 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. 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. 2-2004, 6/14/2004, §4)*

**§5-105. Fees.**

Fees assessable by the Borough of Clarks Green for the administration and enforcement undertaken pursuant to this Part and the Code shall be established from time to time by the Borough Council by resolution.

*(Ord. 2-2004, 6/14/2004, §5)*

## **B. Board of Appeals**

### **§5-111. Joint Appeals Board.**

1. *Participating Municipalities.* There are three participating municipalities, the Township of South Abington and the Boroughs of Clarks Summit and Clarks Green.

2. *Joint Board.* A joint three-member Board of Appeals to hear appeals under the Act and applicable regulations is hereby established. Each participating municipality shall have one designated member and one alternate member to serve in the absence of a designated member of the Municipality. The Board shall elect appropriate officers and establish rules and regulations.

3. *Purpose.* The Joint Board of Appeals shall hear and rule on appeals, requests for variances and requests for extensions of time.

4. *Application.* An owner or owner's agent may seek a variance or extension of time or appeal a building code official's decision by filing a petition with the building code official or other person designated by the Board of Appeals on a form provided by the participating municipality in which the appeal arose. Unless otherwise provided by law, an application for appeal shall be based on a claim that the true intent of the Act or Uniform Construction Code has been incorrectly interpreted, the provisions of the Act or Uniform Construction Code do not fully apply, or an equivalent form of construction is to be used.

5. *Composition.* The composition of a Board of Appeals is governed by all of the following, unless otherwise restricted or preempted by law:

A. A member of the Board of Appeals shall be qualified by training and experience to pass on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry, and training or experience as an inspection or plan reviewer.

B. A member of the Board of Appeals holds office at the pleasure of the municipality's governing body.

C. Members of the municipality's governing body and its code administrators may not serve on a Board of Appeals.

6. *Residency.* A municipality may fill a position on the Board of Appeals with a qualified person who resides outside of the municipality when it cannot find a person within the municipality who satisfies the requirements of 34 Pa. Code §403.121, as may be amended and supplemented.

7. *Alternates.* The governing body of the participating municipality may appoint by resolution at least one person to serve as an alternate member of the Board for their respective municipalities in the absence or unavailability of the designated member. When seated pursuant to the provisions this Part, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Act and as otherwise provided by law.

8. *Disinterested Member.* A Board of Appeals member may not cast a vote or participate in a hearing on any appeal, request for variance or request for extension of

time in which the member has a personal, professional or financial interest.

9. *Public Notice.* A Board of Appeals shall schedule meetings and provide public notice of meetings in accordance with 65 Pa.C.S. §§701-716 (relating to Sunshine Act). If the owner or owner's agent requests a hearing, the Board of Appeals shall schedule a hearing and notify the owner or owner's agent and building code official of the date, time and place of the hearing. The Board of Appeals shall provide a written notice of its decision to the owner and to the building code official.

10. *Prohibition.* A Board of Appeals may not act upon appeals, requests for variance or requests for extension of time relating to accessibility under the Act.

11. *Duration.* The Board shall function as long as there are three participating member municipalities. Any participating member may terminate the agreement by duly authorized resolution passed at a public meeting.

12. *Funding.* Each municipality will appropriate annually such funds as it deems necessary for the Board; the Board may not create any monetary or other obligation or liability on behalf of the participating municipalities. Each participating municipality shall establish fees and costs for appeals to the Board by resolution from time to time.

13. *General.* The Joint Appeals Board shall be governed by the provisions of the Act and applicable regulations as may be amended from time to time including, but not limited to, 34 Pa.Code §§403.121 and .122 unless otherwise provided herein as may be permitted by law.

14. *Interjurisdictional Agreement.* The participating municipalities shall enter into an interjurisdictional agreement. The agreement may be modified from time to time by resolution and execution by the participating municipalities.

(Ord. 4-2004, 11/8/2004)