Chapter 75
CONSTRUCTION CODES, UNIFORM

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[HISTORY: Adopted by the Township Committee of the Township of East Hanover 2-3-77 as Ord. No. 5-1977. Sections 752E(1) (d) , 75-3, 75-4B(l) , and 75-5 amended at time of adoption of Code; See Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Unfit buildings - See Ch. 71. Fees and licenses - See Ch. 78. Fire prevention - See Ch. 86. Land use and zoning - See Ch. 96.

§ 75-1. Enforcing agency; office location; permit procedure.

A. Pursuant to N.J.S.A. 52:27D-119 et seq., known as the "Uniform Construction Code Act of the State of New Jersey" (hereinafter referred to as "the Act"), there is hereby established in the Township of East Hanover a State Uniform Construction Code enforcing agency to be known as "Uniform Construction Code Department of the Township of East Hanover," consisting of a Construction Official, Building Subcode Official, Plumbing Subcode Official, Electrical Subcode Official, Fire Protection Subcode Official and one (1) or more essential staff member employees, which positions are hereby created. The Construction Official shall be the chief administrator of the enforcing agency. He shall have the power to overrule a determination of a subcode official based on an interpretation of a substantive provision of the subcode which such subcode official administers only if the Construction Official is qualified to act pursuant to the Act as a subcode official for such subcode. He may serve as subcode official of any subcode which he is qualified under the Act to administer. A subcode official or Municipal Engineer may serve as a Construction Official if otherwise qualified under the provisions of the Act. Subcode officials or assistant staff may be employed on a full- or part-time basis or hold other positions within the Township of East Hanover.

B. Each official position created in Subsection A hereof shall be filled by a person by resolution of the Township Committee of East Hanover in accordance with and as qualified for such position pursuant to N.J.S.A. 52:27D-119 et seq., as amended, and N.J.A.C. 5:23; provided that in lieu of any particular subcode official, an on-site inspection agency may be retained by contract pursuant to N.J.A.C. 5:23. More than one (1) such official position may be held by the same person, provided that such person is qualified pursuant to N.J.S.A. 52:27D-119 et seq. and N.J.A.C. 5:23 to hold each such position.

C. The public shall have the right to do business with the Uniform Construction Code Department of the Township of East Hanover at its offices located in the Municipal Building, except for emergencies and unforeseen or unavoidable circumstances, during regular business hours.

D. The examination and approval of applications for permits and the expiration or cancellation of permits shall be as follows:

(1) The enforcing agency shall examine each application for a construction permit. If the application conforms to the Act, the code and the requirements of other applicable laws, administration regulations and ordinances, it shall be deemed a completed application and the enforcing agency shall approve the application and shall issue a construction permit to the applicant. Every completed application for a construction permit shall be granted, in whole or in part, or denied within twenty (20) business days. If a completed application is denied in whole or in part, the enforcing agency shall set forth the reasons therefor in writing. If an enforcing agency fails to grant, in whole or in part, or deny a completed application for a construction permit within the period of time prescribed herein, such failure shall be deemed a denial of the application for purposes of an appeal to the Construction Board of Appeals unless such period of time has been extended with the consent of the applicant in writing. The enforcing agency may approve changes in plans and specifications previously approved by it if the plans and specifications when so changed remain in conformity with law.

(2) A construction permit issued in accordance with the foregoing provisions, pursuant to which no construction has been undertaken above the foundation walls within one (1) year from the time of issuance, shall expire. The enforcing agency may suspend, revoke or cancel a construction permit in case of neglect or failure to comply with the provisions of this chapter or the code or upon a finding by it that a false statement or representation has been made in the application for the construction permit.

(3) The enforcing agency shall have all other powers as enumerated in the Act and administrative regulations adopted with reference thereto.

§ 75-2. Construction Board of Appeals.

A. **[Amended 4-18-1996 by Ord. No. 4-1996]** There is hereby established a Construction Board of Appeals to hear appeals from decisions by the enforcing agency and pursuant to § 95-35D(4) of this Code.

(1) Such Board shall consist of five (5) members. At least one (1) Board member shall be a licensed architect or structural or civil engineer of architectural engineering experience, and at least one (1) Board member shall be as qualified as a Plumbing Subcode Official and one (1) as qualified as an Electrical Subcode Official. No more than two (2) Board members shall be selected from the same business or profession. Each Board member shall have had at least three (3) years' experience in construction, design or supervision as a licensed engineer or registered architect; or, in the alternative, five (5) years' experience in construction, design or supervision as an architect or engineer with a bachelor's degree in architecture or engineering, respectively, from an accredited institution of higher education; or, as a further alternative, ten (10) years' experience in construction, design or supervision as a journeyman, in a construction trade or as a construction contractor, subcontractor or inspector.

(2) In addition to the five (5) regular members, the Construction Board of Appeals shall include two (2) special members, one (1) of whom shall be a licensed professional engineer with municipal construction experience, and one (1) of whom shall be a builder. The special members shall serve as additional members of the Board in any case involving an appeal of municipal fees pursuant to § 95-35D(4) of this Code.

B. Appointment of members, special members and alternates. **[Amended 4-18-1996 by Ord. No. 4-1996]**

(1) The Mayor shall appoint the Board members and any alternate members. For the members first appointed, the Township Committee shall designate the appointees' terms so that one (1) shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years and two (2) for terms of four (4) years. At the expiration of such terms and thereafter, appointments shall be made for terms of four (4) years. Vacancies shall be filled for the unexpired term. All terms shall be on a calendar year basis. Members may be removed by the Township Committee after a hearing, for good cause shown.

(2) The Mayor shall appoint such number of alternates as may be appropriate, for terms not to exceed four (4) years, or may, in the alternative, appoint alternates on a case-by-case basis.

(3) The Mayor shall appoint the special members for terms not to exceed four (4) years.

(4) No regular or alternate Board member may be a member of the enforcing agency, the decisions of which are subject to the review of the Board.

C. The members of the Board of Appeals shall annually elect a Chairman and Vice Chairman and a Secretary/ Clerk, who shall be a municipal employee of the enforcing agency designated by the Construction Official, and the Board of Appeals shall adopt bylaws governing its internal affairs and operations in conformance with this chapter, the Act and administrative regulations adopted with reference thereto.

D. All members of the Construction Board of Appeals shall serve without compensation but shall be entitled to reimbursement for out-of-pocket expenses incurred in the performance of their duties, and the Board of Appeals shall be authorized to avail itself of the legal services of the Township Attorney as the need may arise.

E. Administration and enforcement.

(1) Appeal procedure.

(a) Right of appeal. Whenever the enforcing agency shall: deny a completed application for a construction permit, refuse or fail to act upon a completed application for a construction permit, refuse to grant a variation pursuant to Article 6 of the Act hereof or make any other decision pursuant or related to the Act or Code, including the assessment of any monetary penalties, an owner or his authorized agent may appeal to the Construction Board of Appeals.

(b) The application for appeal shall be taken within twenty (20) days of the receipt of written notice of the denial or other decision on the application for a construction permit. Where no notice of denial has been forthcoming, appeal may be taken within twenty (2 0) days after the expiration of twenty (20) days from the time of filing of a completed application for a construction permit.

(c) The application for appeal shall be in writing, filed with the Board, briefly setting forth the appellant's position. Such application shall state the name and address of the appellant, the address of the building or site in question, the permit number and shall reference the specific sections of the code in question and the extent and nature of the appellant's reliance on them. The appellant may append to his written application any data or information that he may deem appropriate to his cause. The enforcing agency shall make available to the Board the full record of the application below, which shall include a detailed explanation of the reasons for the denial of the appellant's request.

(d) The application for appeal shall be accompanied by a fee in the sum set out in Chapter 79, Fees and Licenses. An application for appeal shall not be considered complete unless accompanied by the appeal fee.[1]

(e) The time for appeal may be extended upon application in writing to the Secretary of the Board or may be extended at any regular or special meeting of the Board, by the affirmative vote of a majority of the Board.

(2) Procedure of the Board.

(a) The Board shall meet upon notice of the Chairman or at stated periodic meetings, if warranted by the volume of work. The hearing shall be recorded and copies made available upon request at the expense of the requesting party.

(b) All hearings shall be open to the public. The appellant, his representatives or legal counsel and the enforcing agency through the Construction Official or the appropriate subcode official shall be granted an opportunity to be heard.

(c) When five (5) qualified members are not present to consider a, specific appeal, either the appellant or the enforcing agency may request a postponement of the hearing. If there is no such request for a postponement, any decision made by the members present shall be binding and shall be considered as a decision of the full Board. No meetings shall be conducted unless there are at least three (3) members of the Board present. No specific combination of business or profession represented on the Board need be present, unless an affirmative vote of the members present determines that such is necessary in the public interest.

[1] **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.**

(d) Any member of the Board of Appeals who shall not have been present at any hearing or formal meeting of the Board of Appeals dealing with any appeal shall be permitted to vote on and make a decision thereon, provided he has read the transcript or listened to the recording of all previous proceedings on said appeal and certifies thereto as to the date, time and place he did so.

(3) Decision of the Board.

(a) The Board shall hear the appeal, render a decision thereon and file its decision with a statement of the reasons therefor with the enforcing agency from which the appeal has been taken not later than ten (10) business days following the submission of the completed application for appeal, unless such period of time has been extended with the consent of the appellant. Such decision shall also be filed with the State Division of Housing and Urban Renewal, Bureau of Housing Inspection, Attention: Uniform Construction Code Appeals File, 363 West State, Trenton, New Jersey 08625. Decisions of the Board shall be available for public inspection at the offices of both the Bureau and the enforcing agency during normal business hours.

(b) Such decision may affirm, reverse or modify the decision of the enforcing agency or remand the matter to the enforcing agency for further action. Whenever the Board shall reverse or modify the decision of the enforcing agency, its statement of reasons therefor shall fully explain the nature and extent of its disagreement with the enforcing agency.

(c) Decisions of the Board shall be by a concurring vote of three (3) members. Failure to secure three (3) concurring votes shall be deemed a confirmation of the decision of the enforcing agency. Any dissenting member may attach a statement of reasons in opposition to the decision of the Board.

(d) Every action of the Board shall be by resolution and copies shall be forwarded by certified or registered mail to the appellant or his representatives.

(e) Failure of the Board to hear an appeal and render and file a decision thereon within the time limits prescribed in this section shall be deemed a denial of the appeal for the purposes of a complaint, application or appeal to a court of competent jurisdiction.

(f) The enforcing agency shall take immediate action in accordance with the decision of the Board unless otherwise stayed by a court of competent jurisdiction.

(g) Any party, including the enforcing agency, may within thirty (30) days appeal from the decision of the Board to a court of competent jurisdiction.

§ 75-3. Fee schedule.[2]

The fees for permits and certificates under this chapter shall be as set out in Chapter 79, Fees and Licenses.

[2] **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.**

§ 75-4. Reports of Construction Official; surcharge fees.

A. The Construction Official shall, with the advice of the subcode officials, prepare and submit to the Township Committee, biannually, a report recommending a fee schedule based on the operating expenses of the agency and any other expenses of the municipality fairly attributable to the enforcement of the State Uniform Construction Code Act.

B. Surcharge fees.

(1) In order to provide for the training, certification and technical support programs required by the Uniform Construction Code Act and the regulations, the enforcing agency shall collect, in addition to the fees provided for in § 75-3, a surcharge fee per cubic foot of volume of new construction as set out in Chapter 79, Fees and Licenses. Said surcharge fee shall be remitted to the Bureau of Housing Inspection, Department of Community Affairs, on a quarterly basis for the fiscal quarters ending September 30, December 31, March 31 and June 30, and not later than one (1) month next succeeding the end of the quarter for which it is due. In the fiscal year in which the regulations first become effective, said fee shall be collected and remitted for the third and fourth quarters only.[3]

(2) The enforcing agency shall report annually at the end of each fiscal year to the Bureau of Housing Inspection, and not later than July 31, the total amount of the surcharge fee collected in the fiscal year. In the fiscal year in which the regulations first become effective, said report shall be for the third and fourth quarters only.

§ 75-5. Fire limits.[4]

Fire limits shall be established in accordance with the Uniform Construction Code, Section 5:23-4.7 of the New Jersey Administrative Code, and fire limits shall be enforced in accordance with the provisions of the BOCA Basic Building Code, Article 5, as supplemented and amended from time to time.

[3] **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**
[4] **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art.** I.

§ 75-6. Violations and penalties.

A. Any person or corporation, including an officer, director or employee of a corporation, who:

(1) Violates any of the provisions of the Act or rules promulgated thereunder;

(2) Constructs a structure or building in violation of a condition of a building permit;

(3) Fails to comply with any order issued by an enforcing agency; or

(4) Makes a false or misleading written statement or omits any required information or statement in any application or request for approval to an enforcing agency, shall be subject to a penalty of not more than five hundred dollars ($500.).

B. Anyone who knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building or structure pursuant to this chapter or who unreasonably interferes with such an inspection shall be subject to a fine of not more than two hundred fifty dollars ($250.).

C. With respect to Subsection A(3) of this section, a person shall be guilty of a separate offense for each day that he fails to comply with a stop construction order validly issued by an enforcing agency and for each week that he fails to comply with any other order validly issued by an enforcing agency. With respect to Subsection A(1) and (4) of this section, a person shall be guilty of a separate offense for each violation of any provision of the Act or rules promulgated thereunder and for each false or misleading written statement or omission of required information or statement made in any application or request for approval to an enforcing agency. With respect to Subsection A(2) of the section, a person shall be guilty of a separate offense for each violation of the conditions of a construction permit.

D. The above-mentioned penalties are subject to change through amendments or supplements to the Act and/or the administrative regulations duly adopted pursuant thereto. Payment of a money judgment pursuant hereto brought by the municipality shall be remitted to the Municipal Treasurer of the Township of East Hanover.

§ 75-7. Interpretation of powers.

The powers enumerated in the Act shall be interpreted broadly to effectuate the purposes thereof.

§ 75-8. Filing of copy and reports.

A copy of this chapter, certified to be a true copy, shall be forwarded by the Clerk of the Township of East Hanover to the New Jersey Department of Community Affairs as required by the Act, along with all requisite reports, immediately upon passage.

§ 75-9. Retroactive effect.

This chapter shall be retroactively effective to January 1, 1977, immediately upon passage and publication and compliance with applicable law.