

Article VI — Violations and Penalties

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Article VI — Violations and Penalties

§ 59-601 Violations and Penalties.

(a) **Civil Penalty.** Any person who shall violate any provision of this Chapter shall be subject to a civil penalty of Six Hundred Dollars (\$600.00), unless the violation relates to a mailbox, in which case the civil penalty shall be as follows:

(1) **First Offense.** For the first violation relating to a mailbox, the person shall receive a written warning, and shall be given fifteen (15) calendar days to remedy the violation without a further offense under subsection (d).

(2) **Second Offense.** For a second violation relating to a mailbox (which need not be a violation(s) of the same provision(s) as in the first offense), and for each additional separate violation under subsection (d) enforced through the same notice under subsection (b) or civil enforcement proceeding under subsection (c), the amount of the civil penalty shall be Fifty Dollars (\$50.00).

(3) **Third Offense.** For a violation relating to a mailbox after the second offense under paragraph (2) (which need not be a violation(s) of the same provision(s) as in previous offenses), and for each additional separate violation under subsection (d) enforced through the same notice under subsection (b) or civil enforcement proceeding under subsection (c), the amount of the civil penalty shall be One Hundred Fifty Dollars (\$150.00).

(4) **Subsequent Offenses.** For a violation relating to a mailbox after the offense(s) under paragraph (3) (which need not be a violation(s) of the same provision(s) as in previous offenses), the amount of the civil penalty shall be Three Hundred Fifty Dollars (\$300.00).

(b) **Initial Determination of Violation.** Council hereby delegates the initial determination of violations under this Chapter to the Borough Manager. The Borough Manager shall serve notice of the violation(s) upon the person determined to have violated this Chapter in person or by first class U.S. mail addressed to that person at his/her last known address. The notice shall include a description of the violation(s), the provision(s) of the Codified Ordinances violated (*i.e.* section, subsection, paragraph, etc.), the penalty imposed for each violation, and the time for payment prior to the commencement of a civil enforcement proceeding. Service shall be complete on the date of in-person service or the date of mailing.

(c) **Civil Enforcement Proceeding.** When the penalty imposed for a violation(s) of this Chapter is not voluntarily paid to the Borough within fifteen (15) calendar days after service of the violation notice under subsection (b), the Borough Manager shall initiate a civil enforcement proceeding in the name of the Borough before a magisterial district judge (or, where applicable under Borough Code § 3321(b)(4), 8 PA. CONS. STAT. § 3321(b)(4), the Lehigh County Court of Common Pleas). 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. Any person found to have violated this Chapter in the civil enforcement proceeding shall be assessed court costs and reasonable attorney fees incurred by the Borough in the proceedings, in addition to the penalty provided.

(d) **Separate Offenses.** Each day or portion of a day that a given violation exists or continues shall constitute a separate offense, and each violation of a separate section, subsection, paragraph, or other division of this Chapter shall constitute a separate offense.

(e) **Equitable Remedies.** In addition to or in lieu of enforcement of this Chapter through a civil action, the Borough may enforce this Chapter through an action in equity brought in the Court of Common Pleas of Lehigh County. The Borough Solicitor shall have authority to commence the action in equity on behalf of the Borough without explicit authorization of Council in any situation where the Solicitor or the President of Council deems it advisable to act before the next regular Council meeting.

§ 59-602 No Waiver.

The failure of the Borough to insist on timely performance or compliance by any Permittee, Mailbox Permittee, or other person with the requirements of this Chapter shall not constitute a waiver of the Borough's right to later insist on timely performance or compliance by that Permittee, Mailbox Permittee, or person or any other Permittee, Mailbox Permittee, or person. The failure of the Borough to enforce any provision of this Chapter on any occasion shall not operate

as a waiver or estoppel of its right to enforce any provision of this Chapter on any other occasion, nor shall the failure to regulate or enforce any regulation of the use of the right-of-way prior to the adoption of this Chapter act as a waiver or estoppel against enforcement of this Chapter or any other ordinance or provision of applicable law.