

Sponsor: Councilman DeFeo
First Reading: 01/19/16
Second Reading: 02/01/16
Third Reading: 02/16/16
Ord. No.: 001-16

AN ORDINANCE TO AMEND CHAPTER 70 (“UTILITIES”), ARTICLE II (“WATER AND SEWER SYSTEM”) TO REQUIRE THE ABANDONMENT OF PRIVATE WELLS AND SEPTIC SYSTEMS FOR THOSE PROPERTIES CONNECTED TO THE TOWN’S PUBLIC WATER AND SEWER SYSTEM AND TO ADD A NEW SECTION REGULATING THE INSTALLATION OF PRIVATE WELLS

WHEREAS, sections 4.2.13 and 21 of the Town Charter authorize the Town to operate and control a water system in the Town of Smyrna;

WHEREAS, sections 4.2.14 and 22 of the Town Charter authorize the Town to operate and control a sewer system in the Town of Smyrna;

WHEREAS, pursuant to section 70-61 of the Smyrna Town Code, all properties in Smyrna abutting a street with a public water main or sewer main are required to connect to the town’s water and sewer system, thus minimizing any need for a private well or septic system on any such property;

WHEREAS, the installation and operation of private wells on properties connected to the Town of Smyrna’s water system can potentially contaminate the town’s water system and cause harm to the town’s water customers should a property owner connect the private well to the building’s water system and/or the town’s water system;

WHEREAS, minimizing the installation of private wells in the Town of Smyrna will reduce the potential for harm to the town’s water system and harm to individuals that could consume the water;

WHEREAS, once a property has connected to the Town’s water and sewer system, any private well and septic system previously servicing that property are no longer needed; and

WHEREAS, in order to protect the health, safety, and welfare of the residents of the Town of Smyrna, it is necessary for private wells and septic systems for those properties connected to the town’s water and sewer system to be abandoned in order to prevent contamination to the town’s water and sewer system and the surrounding environment.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the Town Code of the Town of Smyrna be and hereby is amended as follows:

Section 1. Amend Chapter 70 (“Utilities”), Article II (“Water and System System”) by making insertions as shown by underlining and deletions as shown by strike through as follows:

Sec. 70-34 – Private Wells.

- (a) No person shall install a private well on (i) any property connected to the town’s water system or (ii) any property in the Town of Smyrna required by the Town Code to be connected to the town’s water system. For purposes of this section, private wells include all wells not owned and operated by the Town of Smyrna or Tidewater Utilities, Inc.

- (b) Notwithstanding the foregoing, a private well may be installed solely for agricultural or irrigation purposes on properties larger than five (5) acres when the purpose of the well is to provide non-potable water to an agricultural or horticultural business.
- (c) No private well shall be connected to the town's water system. No private well shall be connected to the plumbing system of any building or structure on (i) any property connected to the town's water system or (ii) any property in the Town of Smyrna required by the Town Code to be connected to the town's water system.
- (d) Prior to the installation of any private well, all necessary permits shall be obtained from the State of Delaware and a letter of no objection shall be obtained from the Town of Smyrna.

~~Sec. 70-34 – 70-45. – Reserved.~~

~~Sec. 70-35 – 70-45. – Reserved.~~

Section 2. Amend Chapter 70 (“Utilities”), Article II (“Water and System System”) by making insertions as shown by underlining and deletions as shown by strike through as follows:

Sec. 70-30. - Penalties.

- (a) Any person convicted of violating the provisions of this article shall be guilty of a criminal violation and shall forfeit and pay a fine as follows:
 - (1) For violation of: subsection 70-47(c), penalties for refusal to permit; section 70-96, stop use order; section 70-29, damage, obstructions, interference with town systems:
 - a. \$10.00 for the first offense.
 - b. \$20.00 for the second offense.
 - (2) For violation of section 70-28, grease and sand traps: Any person found guilty of violating section 70-28 shall, upon conviction, be subjected to a fine of not less than \$10.00 nor more than \$25.00.
 - (3) For violation of section 70-61, obligation to connect and abandon: Not less than \$25.00 nor more than \$100.00 for the first offense and not less than \$50.00 nor more than \$200.00 for the second or any subsequent offense. Each day of a continuing violation shall constitute a separate offense.
 - (4) For violation of sections 70-29, unauthorized access to town water and sewer system, 70-34, private wells, and/or 70-62, unauthorized connections: Any person found guilty of violating sections 70-29, 70-34, or 70-62 shall be fined \$500.00 for the first offense and \$1,000.00 for any second or subsequent offense. Each day of a continuing violation shall be a separate offense. Each separate occurrence shall be deemed a separate offense.

Section 3. Amend Chapter 70 (“Utilities”), Article II (“Water and System System”) by making insertions as shown by underlining and deletions as shown by strike through as follows:

Sec. 70-61. - Obligation to connect where available.

- (a) *Water.* Where any land and/or building abuts a street, alley or way in the town in which there is a town water main, within 90 days of the date such town water main is available for connection to such land and/or building, all plumbing facilities on such land or in such building shall be connected to the town water system and all private wells located thereon shall be permanently disconnected, sealed off, and abandoned in accordance with State of Delaware regulations. ~~all plumbing facilities on such land or in such building shall be connected to the town water system, within 90 days of the date such town water main is available for connection to such land and/or building.~~
- (b) *Sewer.* Where any land and/or building abuts a street, alley or way in the town in which there is a town sewer main, within 90 days of the date such town sewer main is available for connection to such land and/or building, all sanitary sewage disposal facilities shall be connected to the town sewer system and all private cesspools, septic tanks, or any other private sanitary sewage disposal facilities shall be permanently disconnected, sealed off, and abandoned in accordance with State of Delaware regulations. ~~all sanitary~~

~~sewage disposal facilities shall be connected thereto, and no private cesspool, septic tank, privy or other kind of toilet not flushed into the town sewer system shall be used thereon or therein beyond 90 days after such sewer line becomes available for connection to such land and/or building.~~

(c) *Violations.* If any plumbing facilities and/or sanitary sewage disposal facilities are not connected to the town water and/or sewer system within 90 days of the date that such water and/or sewer line becomes available for connection, in violation of this section, or if any private wells or private cesspools, septic tanks, or any other private sanitary sewage disposal facilities are not permanently disconnected, sealed off, and abandoned in accordance with DNREC regulations within 90 days of the date that such water and/or sewer line becomes available for connection, in violation of this section, the owner and/or occupant may be prosecuted under ~~section 70-29~~section 70-30.

Section 4. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council’s intent.

Section 5. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This ordinance prohibits the installation of private wells on property connected to the town’s water system or required to be connected to the Town’s water system except on properties larger than five (5) acres in size that are being used for an agricultural or horticultural business. Private wells shall not be connected to the town’s water system or the plumbing system of any building or structure. All permits required by the State of Delaware must be obtained prior to the installation of a private well, and this ordinance outlines penalties for the violation of the ordinance. Private wells and private septic systems must be abandoned in accordance with DNREC regulations once a property is connected to the Town’s water system or sewer system.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on _____, 2016.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in the “Smyrna/Clayton Sun Times” on _____, 2016 and posted at the Town Hall on _____, 2016.

So Certifies:

Town Clerk