

Sponsor: Councilwoman Brown  
First Reading: 03/02/15  
Second Reading: waived  
Third Reading: 04/06/15  
Ord. No.: 002-15

AN ORDINANCE TO AMEND CHAPTER 18 (“BUILDINGS AND BUILDING REGULATIONS”),  
ARTICLE XII (“REDEVELOPMENT AUTHORITY”), DIVISION 3 (“FAÇADE IMPROVEMENT  
MATCHING GRANT PROGRAM”) TO CLARIFY THE APPLICATION PROCESS AND GRANT LIMITS  
AND TO CLARIFY THAT THE SMYRNA SLUM CLEARANCE AND REDEVELOPMENT AUTHORITY  
ADMINISTERS THE PROGRAM

WHEREAS, the Town of Smyrna is authorized to establish a slum clearance and redevelopment authority under 31 *Del. C.* Chapter 45 (“Slum Clearance and Redevelopment Authority Law”) and has established a Slum Clearance and Redevelopment Authority;

WHEREAS, the Town Council had established a façade improvement matching grant program; and

WHEREAS, the Town Council is of the opinion that it is necessary to clarify the application process of the façade improvement matching grant program and clarify that the Slum Clearance and Redevelopment Authority is responsible for administering the program.

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 18 (“Buildings and Building Regulations”), Article XII (“Redevelopment Authority”), Division 3 (“Façade Improvement Matching Grant Program”) by making insertions as shown by underlining and deletions as shown by strike through as follows:

**DIVISION 3. FAÇADE IMPROVEMENT ~~MATCHING~~ GRANT PROGRAM**

**Sec. 18-701. - Declaration of necessity by town council.**

The town council hereby adopts and affirms the legislative finding declared in section 4502 of title 31 ("welfare") of the Delaware Code (as amended) and the declarations of necessity under division 1 and 2 hereunder. The town council has determined it is in the public interest that slum conditions and conditions of blight, dilapidation, obsolescent, decay, and deterioration be eliminated and that the redevelopment, rehabilitation, renovation, reconstruction, restoration, conservation, or combination thereof, of such conditions is necessary in the interest of public health, safety, morals and welfare of the residents of the town. The existence of such conditions eventually necessitates excessive and disproportionate expenditure of public funds upon the structures falling into such a great state of disrepair that they become unsalvageable. The town council desires to encourage the redevelopment, rehabilitation, renovation, reconstruction, restoration, and conservation of the aforementioned conditions by the expenditure of public money through a facade improvement ~~matching~~ grant program conditioned upon such terms to prevent the recurrence of the condition(s). Thereby eliminating, remedying, or preventing, to the extent feasible, the conditions enumerated hereunder so that the same do not constitute an economic and social liability upon the residents of the town. The town council is exercising such powers, rights and duties pursuant to chapter 45 ("slum clearance and redevelopment law") of title 31 ("welfare") of the Delaware Code, as amended, and the Town Charter.

**Sec. 18-702. - Creation of authority.**

The ~~town council~~ Slum Clearance and Redevelopment Authority shall be vested with the powers, functions and duties ~~of the authority under specified in~~ this division.

**Sec. 18-703. - Powers, functions and duties of authority.**

Pursuant to the Town Charter and chapter 45 ("slum clearance and redevelopment authority law") of title 31 ("welfare") of the Delaware Code (as amended), ~~the town council, acting as the authority,~~ the Slum Clearance and Redevelopment Authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this division, including, but not limited to, those powers necessary or convenient to engage in redevelopment, rehabilitation, renovation, reconstruction, restoration, and conservation to eliminate, remedy or prevent slum conditions and conditions of blight, dilapidation, obsolescent, decay, and deterioration. ~~The town council, acting as the authority,~~ Slum Clearance and Redevelopment Authority may expend public money through the facade improvement ~~matching~~ grant program if the expenditure is conditioned upon such terms to prevent the recurrence of the condition(s) eliminated, remedied or prevented and if the expenditure will result in improvements that are compatible with the architectural features of the existing structure or neighborhood.

**Sec. 18-704. - Eligible properties.**

(a) Commercial and residential properties located within the ~~historic preservation overlay district (HPOD), as define by the town zoning code,~~ town's boundaries shall be eligible to participate in the facade improvement ~~matching~~ grant program.

~~(b) Properties owned by or associated with religious organizations are not eligible to participate in the facade improvement matching grant program.~~

**Sec. 18-705. - Eligible applicants.**

The property owner(s) and any person or entity holding an equitable or legal interest in the property are eligible to make application for monies under the facade improvement ~~matching~~ grant program. All applications by any person or entity other than the property owner shall be supported by a notarized letter of permission from the property owner. An applicant's financial resources, or lack thereof, shall not be considered in the application review process.

**Sec. 18-706. - Eligible improvements.**

~~(a) The authority shall reasonably determine the~~ The exterior front facade improvements eligible for matching grant monies include, but are not limited to, ~~which shall include, but is not limited to,~~ the rehabilitation, renovation, reconstruction (photographic documentation ~~and or~~ and/or historic documentation must be provided), restoration, replacement, installation, conservation, or any other similar construction activity of the following improvements (which this is not intended to be an exhaustive list of eligible improvements); ~~and the authority reserves the right to make the final and conclusive determination of all eligible improvements on an application~~:-

(1) *Doors.* An exterior facade door (including a storm door and screen door) and/or door hardware (knobs, knockers, door plates, numbers, etc.) which are visible from a public street and/or sidewalk.

(2) *Lighting.* Exterior facade lighting which is visible from a public street and/or sidewalk.

(3) *Roofs.* The front, side and back of a sloping roof, part of which is visible from a public street and/or sidewalk. The authority may not grant monies for a flat roof unless a significant portion of the roof area is visible from a public street and/or sidewalk.

(4) *Shutters or awnings.* Exterior facade shutters or awnings visible from a public street and/or sidewalk.

(5) *Stairs, railings, columns, porches and balconies.* Exterior stairs, railings, columns, porches and balconies visible from a public street and/or sidewalk.

(6) *Walkways.* Any sidewalk, paver system or other permanent walkway improvement designed for pedestrian use from a public street or sidewalk. The walkway does not have to be primarily used for public pedestrian use, but the walkway must provide access for the general public from a public street or sidewalk to the property.

(7) *Walls.* The exterior facade wall of a property visible from a public street or sidewalk. In addition to the "construction activities" enumerated in the opening paragraph of this section, the cleaning, sealing, tuck pointing, and painting of an exterior facade wall are eligible improvements.

(8) *Windows.* Exterior facade windows visible from a public street and/or sidewalk. In addition to the "construction activities" enumerated in the opening paragraph of this section, the glazing or re-glazing of sills are eligible improvements.

(9) *Architectural decorative ornamentation.* Architectural decorative ornamentation, including, but not limited to, finials, balustrades, brackets, braces, dentils, cornices, moldings, and decorative siding, visible from a public street and/or sidewalk.

(10) *Chimneys.* The sealing, tuck pointing, stuccoing, re-stuccoing and painting of an exterior chimneys which are visible from a public street and/or sidewalk. Decorative corbelling and capping are eligible improvements.

(11) *Privacy fences around exterior mechanical units.* Privacy fences around exterior mechanical units that are visible from a public street and/or sidewalk. Privacy fences are defined as those types of fences which enclose only a small area in close proximity to the primary structure. Such fences are permitted, subject to prior written approval from the town, if the fence does not exceed a height of six feet and is constructed of PVC, vinyl, or wood.

All improvements shall be permanent and fixed in type or nature. The applicant is responsible for securing a building permit before beginning any construction activity. The applicant is responsible for ensuring that all improvements satisfy any code requirements of the town, including, but not limited to, zoning, building and safety.

(b) The authority reserves the right to make the final and conclusive determination of all eligible improvements on an application to ensure the proposed improvements are compatible with the architectural features of the structure or neighborhood. When reviewing an application for approval the authority shall consider all relevant factors, which may include, but are not limited to, the following:

(1) The height of the proposed improvement and its compatibility with adjacent structures.

(2) The proportion of the structure's front and, where relevant, side façade to ensure that the relationship of the width of the improvement to the height of its front elevation shall be compatible with structures to which it is visually related.

(3) The proportionality of the openings within the façade and the relationship of solids and voids on the façade to those of adjacent buildings.

(4) The relationship of the structure to the open spaces between it and adjoining buildings.

(5) The relationship of entrances and porch projections to the street and their compatibility with the area to which the structure is visually related.

(6) The scale of the structure in terms of its size, its mass, the nature of window and door openings, the directional compatibility of the façade, and the appropriateness of other architectural features.

(7) The shape of the roof and its compatibility to adjacent buildings and the area to which it is visually related.

(8) The compatibility of materials, textures and colors to the predominant materials used in buildings to which the proposed improvement is visually related.

(9) The appropriateness of materials proposed for use in relationship to the existing materials on the structure.

(10) The compatibility of the structure's exterior features, such as lighting, fences, signs, sidewalks, steps, doorways and surrounds, or driveways with the features of those structures to which it is visually related, and the appropriateness of those features to the neighborhood in which the structure is located. However, a dissimilar architectural style may be acceptable if it appropriately furthers the evolution of the neighborhood or promotes the compatible adaptive reuse of the structure.

(11) The extent to which the proposed action removes or reduces prior inappropriate modifications to a structure such that its future appearance will be more compatible with the character of the neighborhood in which the structure is located.

(b) Recommendation by historic preservation overlay district review board. For those properties located within the Historic Preservation Overlay District, Prior prior to the approval of any application by the authority, the historic preservation overlay district review board shall review the application and make a recommendation to the authority as to whether or not the improvements are consistent with any historic district design guidelines adopted by the town and any other consideration provided for in chapter 19 of the Town Code. Only those improvements consistent with any historic district design guidelines and chapter 19 are eligible for grant monies. The board shall make the final determination as to whether or not the improvements are consistent with any historic district design guidelines adopted by the town; except for appeals to the town council under chapter 19

### **Sec. 18-707. - Grant application.**

(a) The applicant must complete and return to the authority the application and the following:

- (1) An affidavit signed by the property owner and all persons or entities holding an equitable or legal interest in the property stating:
  - a. The same do not have any pending litigation with the town; and
  - b. The amount of grant monies already applied for and/or distributed for the property listed on the application does not exceed the amounts authorized hereunder for ~~matching~~ grants.
- (2) A notarized letter of permission from the property owner if the application includes persons or entities other than the property owner.
- (3) The property owner shall provide to the authority acceptable proof of ownership of the property, as reasonable determined by the authority (e.g., a certified copy of the deed).
- (4) A signed town treasury information form (or similar document) which shall state that the property owner and all persons or entities holding an equitable or legal interest in the property are not delinquent on any debts owed to the town, including, but not limited to, property taxes and water, electric and sewer charges.
- (5) A letter of recommendation from the historic preservation overlay district review board, where applicable.

(6) A detailed description and itemized costs of the improvements to be completed with grant monies.

**Sec. 18-708. - Matching Reimbursement grant amounts.**

(a) *Commercial properties within the historic preservation overlay district (HPOD).* Subject to the availability of funds and approval of an application. ~~The~~ the authority shall reimburse match up to \$5,000.00 ~~25%~~ 25% of the monies invested on eligible improvements by the property owner and/or any person or entity holding an equitable or legal interest in the property. The total amount of all ~~matching~~ grants by the authority shall not exceed ~~\$5,000.00~~ \$2,500.00 for a single property in one calendar year.

(b) *Residential properties within the historic preservation overlay district (HPOD).* Subject to the availability of funds and approval of an application. ~~The~~ the authority shall reimburse match up to \$5,000.00 ~~25%~~ 25% of the monies invested on eligible improvements by the property owner and/or any person or entity holding an equitable or legal interest in the property. The total amount of all ~~matching~~ grants by the authority shall not exceed ~~\$5,000.00~~ \$2,500.00 for a single property in one calendar year.

**Sec. 18-709. - Funding of matching grant program.**

(a) *Availability of grant monies.* Every application shall be conditioned upon the availability of grant funds. Applications shall be considered in the order received, on a first come, first served basis. Applicants shall be subject to a waiting list if funds are not available for the facade improvement ~~matching~~ grant program.

(b) *Reconciliation of grant funds.* The authority shall reconcile grant funds on a monthly basis and temporarily assign grant funds to an applicant subject to the approval of the application by the authority.

**Sec. 18-711. - Disbursement of grant monies.**

Prior to the disbursement of grant monies, the applicant(s) shall provide the following to the authority:

- (1) A letter from the town manager that the improvement(s) have passed all final inspections required under the town codes.
- (2) A letter from the historic preservation overlay district review board, where applicable, stating that the improvements satisfy the historic district design guidelines and the provisions of chapter 19.
- (3) An itemized invoice or receipts of the improvement(s) constructed marked "paid in full."
- (4) A waiver of lien signed by each contractor performing work upon the property.
- (5) An affidavit signed by the applicant(s) stating the amount of monies expended by the applicant(s) which is eligible to be ~~matched~~ reimbursed with grant monies by the authority as provided hereunder.

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SYNOPSIS

This ordinance clarifies that the Slum Clearance and Redevelopment Authority is responsible for administering the town's façade improvement grant program, which program shall be administered on a first come, first served basis. This ordinance expands the availability of the program to all structures within the town's boundaries and specifies that, subject to the available of funds, eligible applicants can receive a 25% grant up to a total of \$2,500 for a single property in one calendar year. This ordinance outlines standards for the authority to use when evaluating applications and clarifies that this grant program operates on a reimbursement basis.

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