

FIRST READING: January 19, 2010  
SECOND READING: February 16, 2010  
THIRD READING: March 1, 2010  
ORD. NO.: 007-10  
SPONSOR: \_\_\_\_\_  
REFERRED TO: \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, ARTICLE I, IN GENERAL.

BE IT HEREBY RESOLVED by the Mayor and Council of the Town of Smyrna, a majority thereof concurring in Council duly met that Chapter 18, Buildings and Building Regulations, Article I, IN GENERAL, be and hereby is amended as follows:

Section 1.

Amend **Section 18-3** ("Appendices") as follows by deleting the strikethrough and replacing it with the underscored:

Sec. 18-3. Appendices.

Provisions in the appendices to any code adopted under this chapter shall ~~also be adopted and made a part of this chapter with the additions, insertions, deletions and changes, if any, prescribed under this chapter.~~ not apply unless specifically adopted by the adopting ordinance(s) for each code adopted. An appendix for each code adopted under this chapter shall be maintained by the department, and each may be amended from time to time as deemed necessary by the department.

Amend **Section 18-4** ("Definitions") by adding the underscored wording:

Building code official or building official means the code official as defined herein.

Amend **Section 18-15** ("Permit required") as follows by adding additional underscored wording and substituting the strikethrough with the underscored to change the lettering of subsections a. through j. as follows:

*Work exempt from permit.* Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of the town. Permits shall not be required for the following:

a. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 24 square feet (2.23 m2).

~~a.-b.~~ Retaining walls which are not over four feet (1,219 mm) in exposed height, unless supporting a surcharge or impounding class I, II or III-A liquids.

~~b.-c.~~ Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

~~e.-d.~~ Replacement of roof covering that does not involve the repair or replacement of more than 25 percent of the sheathing.

~~d.-e.~~ Temporary motion picture, television and theater stage sets and scenery.

~~e.-f.~~ Prefabricated swimming pools accessory to a one-or two family dwelling, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (19,000 L) and are installed entirely above ground.

~~f.-g.~~ Swings and other playground equipment accessory to one-and two-family dwellings.

~~g.-h.~~ Window awnings supported by an exterior wall which do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.

~~h.-i.~~ Movable cases, counters and partitions not over five feet nine inches (1,753 mm) in height.

~~i.-j.~~ Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next business day to the code official.

~~j.-k.~~ Repairs. Application or notice to the code official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, mechanical, or other work affecting public health or general safety.

1. Mechanical:

1. Portable heating appliance.

2. Portable ventilation equipment.

3. Portable cooling unit.

4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

5. Replacement of any part that does not alter its approval or make it unsafe.

6. Portable evaporative cooler.

7. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

m. Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

n. Public service agencies. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

Amend **Section 18-20** ("Time limitation of application for permit") by adding the underscored wording:

Sec. 18-20. Time limitation of application for permit.

An application for a permit for any proposed work shall be deemed to have been abandoned 90 days after the date of filing unless such application has been pursued in good faith or a permit has been issued. The code official is authorized to grant an additional 90 days for further consideration of the application. The extension shall be requested in writing by the applicant and granted upon justifiable cause being demonstrated.

Amend **Section 18-27** ("Payment of fees") by adding the underscored wording:

(1) A permit shall not be valid until the fees prescribed by law have been paid in full. No amendment to a permit shall be released until the additional fee, if any, has been paid.

(Ord. No. 016-05, § 4, 8-15-05)

(2) Related Fees. The payment of fees for the construction, alteration, removal, demolition or any other work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

Amend **Section 18-28** ("Schedule of permit fees") by adding the underscored wording:

(4) Fees for Plumbing Permits shall be \$20.00 for the first five fixtures, \$2.00 per each fixture thereafter.

(5) Fees for Signs shall be \$2.00 per square foot with a \$25.00 minimum for new signs and \$25.00 for refacing of existing signs.

Amend **Section 18-29** ("Cap on permit fees for qualifying projects") by renumbering the section as follows:

Sec. 18-29.28.1 Cap on permit fees for qualifying projects.

Amend **Sections 18-30** ("Related fees") and **18-31** (Fees for signs") by deleting them in their entirety.

Amend **Section 18-32** ("Final and temporary certificate of occupancies") by renumbering the section as follows:

Sec. 18-32.29 Final and temporary certificate of occupancies.

Amend **Section 18-33** ("Reinspections") by renumbering and by deleting the strikethrough and by adding the underscored wording as follows:

Sec. 18-33.30 Reinspections.

When an inspection is scheduled with the town, it is the responsibility of the building contractor or property owner to make sure the structure and property is ready by the time the code official arrives on site. A minimum of one hour's notice is required to cancel or reschedule an inspection. All inspections require 24-hour advance notice. If a code official arrives on-site and the structure or property is not ready and the inspection was not cancelled at least one hour in advance, a ~~\$50.00 fee must be paid at the town hall before the inspection may be rescheduled. An additional fee of \$50.00 shall be charged for each follow up inspection required because of uncompleted or unsatisfactorily completed items found by the code official on a previous inspection.~~ the inspection must be rescheduled. Reinspections shall be subject to the following fees:

<u>First reinspection.....</u>	<u>\$0.00</u>
<u>Second reinspection.....</u>	<u>\$25.00</u>
<u>Third reinspection.....</u>	<u>\$50.00</u>
<u>Any subsequent reinspection .....</u>	<u>\$100.00</u>

The building official shall be given the authority to waive reinspection fees for individual cases if circumstances beyond the control of the property owner or building contractor prevented them from contacting the town an hour prior to the inspection to reschedule. ~~deemed appropriate.~~

Amend **Section 18-34** ("Permit valuations occupancies") by renumbering the section as follows:

Sec. 18-34.31 Permit valuations.

Amend **Section 18-35** ("work commencing before permit issuance") by renumbering and adding the underscored wording as follows:

Sec. 18-~~35~~.32 Work commencing before permit issuance.

(a) Any person who commences any work on a building, structure, gas, electrical, mechanical, or plumbing system before obtaining the necessary permits shall be subject to administrative penalties and fees established by the code official in addition to the required permit fees.

(b) Doubling fees. Permit fees shall double in the event that a permit is applied for after construction has commenced without the permission of the building inspector. The building inspector may waive the doubling of fees in cases where the building permit applicant is not a professional contractor, and the work is not being done by a professional contractor.

Amend **Section 18-36** ("Construction documents") by renumbering, deleting the strikethrough and adding the underscored wording as follows:

Sec. 18-~~36~~.33 Construction documents.

(a) Construction documents, special inspection and structural observation programs, investigation and evaluation reports, and other data shall be submitted in two sets or more with each application for a permit. The construction documents shall be prepared by a registered design professional licensed in the state. Construction documents for new construction, alterations, repairs, expansion, additions or modifications of buildings or structures, which involve the practice of architecture or engineering, as defined by the professional registration laws of the State of Delaware shall be prepared by a registered design professional consistent with the professional registration laws of the State of Delaware. Construction documents shall include the name, address and license or registration number of the registered design professional and shall be signed, sealed and dated by the registered design professional in accordance with the professional registration or licensing laws, statutes, regulations or administration provisions of the State of Delaware. Where special conditions exist, the code official is authorized to require additional construction documents to be prepared by a registered design professional at the applicant's expense.

Amend **Section 18-37.5** ("Required inspections") by renumbering, deleting the strikethrough and adding the underscored wording as follows:

Sec. 18-~~37.5~~.34 Required Inspections.

~~On~~—All projects for which a permit is issued by the town Department of Planning and Inspections shall be subject to

inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

a. Preliminary inspection. Before issuing a permit, the code official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

b. Required Inspections

The following inspections shall be conducted (as applicable) by the code official:

(1) ~~Footer.~~ Footing inspection. Footing inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place.

(2) Foundation. Foundation inspections shall be made prior to backfill. Backfill shall not be placed against the wall until the wall has sufficient strength to prevent damage by the backfill, and has been inspected.

(3) Concrete slab and under-floor inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, any electric and plumbing installations have inspected and approved but before any concrete is placed or floor sheathing installed, including the subfloor.

~~(3)~~ (4) Water and/or sewer laterals. Water and/or sewer laterals shall be inspected after connection and before covering.

~~(4)~~ (5) Sidewalk forms. Sidewalk forms shall be inspected with the forms and stone base in place prior to the placement of concrete.

~~(5)~~ (6) ~~Close-in/framing.~~ Framing. Framing inspections shall be made after the roof deck or sheathing, all framing, fireblocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are inspected and approved.

~~(6)~~ (7) Close-in/Insulation.

~~(7)~~ (8) Step or deck footer-footings. Step or deck footing inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place.

~~(8)~~ (9) Grading and drainage. Grading and drainage inspections shall be done and approved by all agencies having jurisdiction when the final grade and stabilization has been established and prior to scheduling of a final or certificate of occupancy inspection.

~~(9)~~ (10) Final or certificate of occupancy inspection. The final inspection shall be made after all work required by the building permit is completed, all required inspections performed by other agencies have been completed and approved and prior to the issuance of a certificate of occupancy, if a certificate of occupancy is required.

(11) In addition to the inspections specified above, the code official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department of building safety.

(12) Inspection agencies. The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

Amend **Section 18-37** ("Debris and rubbish") by renumbering the section as follows:

Sec. 18-37.34.1 Debris and rubbish.

**Add new Sections 18-35 Appeals, 18-36 Violations and 18-37 Stop Work Order** as follows:

Sec. 18- 35 Appeals

(a) Any person aggrieved by an action taken by the code official may appeal from such action by filing written notice of appeal with the appointed Building/Housing Code Board of Appeals in accordance with the provisions contained in the Town of Smyrna Housing Code within ten days after the giving or posting of notice of such action. An appeal under this section shall stay the effect of the notice of violation or condemnation and shall prevent the code official from proceeding with the remedies provided under this article pending decision by a board of appeals.

(b) Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

Sec. 18-36 Violations

(a) Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

(b) Notice of violation. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation and shall be in accordance with the notice provisions found in the Smyrna Housing Code.

(c) Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall upon conviction, be guilty of a criminal misdemeanor and subject to punishment as provided in section 1-11 of this Code.

Sec. 18- 37 Stop Work Order

(a) Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order.

(b) Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

(c) Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall upon conviction, be guilty of a criminal misdemeanor and subject to punishment as provided in section 1-11 of this Code.

Amend **Section 18-41** ("Notice to others.") by adding the underscored wording as follows:

Sec. 18-41 Notice to others.

(a) No permit shall be issued under this division until written notice has been sent by U.S. regular mail and certified mail (return receipt requested) by the permit applicant to the owners of adjoining lots and to the owners of any property for which the



temporary disconnection of utilities is necessitated by the proposed work. Copies of such written notice(s) shall be provided to the town with a written assurance from the applicant as to delivery of such notice(s) to the addressees prior to the issuance of a permit.

(Ord. No. 016-05, § 5, 8-15-05)

(b) Utility connections. Before a structure is demolished or removed, the owner or agent shall notify all utilities, in writing, having service connections within the structure, including, but not limited to, water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until a release is obtained from the utilities, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

#### SYNOPSIS

This amending ordinance revises Article 1. In General, of Chapter 18, Building and Building Regulations of the Town of Smyrna Code. Article 1 sets the administrative procedures and requirements for the issuance of permits and the performance of inspections. The additions contained within this ordinance bring the Town of Smyrna procedures in closer alignment with the administrative provisions contained within the International Building Codes.

ATTEST:

\_\_\_\_\_  
Council Secretary

\_\_\_\_\_  
Mayor

This shall certify that the title and synopsis of this Ordinance were published in the Smyrna/Clayton Sun Times on January 27, 2010 and posted at the Town Hall on January 27, 2010.

So Certifies:

\_\_\_\_\_  
Town Clerk

This shall certify that the title, effective date and synopsis of this Ordinance were published in the Smyrna/Clayton Sun Times on March 10, 2010 and posted at the Town Hall on March 10, 2010.

So Certifies:

\_\_\_\_\_  
Town Clerk