

Sponsor: Councilwoman Forbes
First Reading: 01/06/20
Second Reading: 01/21/20
Third Reading: 02/03/20
Ord. No.: 001-20

AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF SMYRNA TO CLARIFY THE STANDARD OF REVIEW FOR FENCE ADJUSTMENT REQUESTS

WHEREAS, the Town Council of the Town of Smyrna is authorized pursuant to section 4.2.25 of the Town Charter to “provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;”

WHEREAS, while the Town Council has adopted regulations pertaining to the construction of fences in Town, and the Town Council has determined that it is necessary to update these requirements to clarify the standard of review the Town Council will follow when considering fence adjustment requests; and

WHEREAS, in the opinion of the Town Council, in order to further the public health, safety, and welfare, it is necessary to update the fence requirements of the Town Code of the Town of Smyrna by making the changes more fully outlined herein.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that Chapter 18 (Buildings and Building Regulations), Article VI (Fences) of the Town Code of the Town of Smyrna be and hereby is amended as follows:

Section 1. Amend Section 18-196 (Adjustment) by making insertions as shown by underline and deletions and shown by strikethrough as follows:

Sec. 18-196. - Adjustment.

Any property owner may apply to the town council for an adjustment from the provisions of this article. Notice of the date, time, place, property address and nature of the adjustment request shall be posted on the property and mailed or delivered to abutting property owners.

Abutting property owners or the building inspector shall have 15 days from the date of the notice to request a hearing before the town council. Requests for hearings must be in writing and received at the town hall no more than 15 days after the date on the notice.

If a request for a hearing is not received by the town prior to the expiration of the 15-day time limit, the building inspector shall approve the request for adjustment. If a hearing is requested, a public hearing shall be held at which time all interested parties shall be permitted to speak on the requested adjustment. When considering a fence adjustment request, the Town Council may grant a fence adjustment where it finds that the proposed fence (1) will be in harmony with the adjoining and nearby properties and (2) will not impair the ability of the

Town or another easement holder to use an easement for the purposes for which the easement was granted.

Section 2. 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 3. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This ordinance establishes standards by which the Town Council can determine whether or not a fence adjustment request should be approved and corrects two typographical errors.

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 _____, 2020.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in the "Smyrna/Clayton Sun Times" on _____, 2020 and posted at the Town Hall on _____, 2020.

So Certifies:

Town Clerk