

Sponsor: Denison
First Reading: 03/02/2020
Second Reading: 05/11/2020

TOWN OF WYOMING ORD. 50-20

AN ORDINANCE ESTABLISHING BUILDING INSPECTION PROCEDURES, INCLUDING THE ESTABLISHMENT OF ENFORCEMENT PROCEDURES AND CIVIL PENALTIES, AUTHORIZING THE APPOINTMENT OF CODE ENFORCEMENT CONSTABLES, AND REPEALING ALL OTHER CONFLICTING ORDINANCES

WHEREAS, Section 28.2 of the Town Charter authorizes the Town to appoint a Building Inspector and specifies that the Town “may provide for the issuance of building permits, and may forbid the construction of any new building, or the addition to, or alteration, or repair of any existing building unless a building permit has been obtained therefor”;

WHEREAS, Title 10, Chapter 29 of the Delaware Code authorizes municipalities to appoint code enforcement constables to enforce building, housing, sanitation, zoning, and public health codes;

WHEREAS, Title 25, Chapter 29 of the Delaware Code establishes mechanisms whereby municipalities may recover amounts owed to the Town in connection with violations of “local building, property, maintenance, zoning, subdivision, drainage, sewer, housing, sanitation, or animal code citations”;

WHEREAS, in the opinion of the Town Council of the Town of Wyoming, it is in the best interest of the public health, safety, and welfare to repeal all prior ordinances pertaining to building permits and building inspectors and adopt a new ordinance to clarify the duties of code enforcement constables and building inspectors and building permit procedures and penalties.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Wyoming, a majority thereof concurring in council duly met, that Ordinance Nos. 9-11, 39-17, and 48-18 are hereby repealed in their entirety, and the following ordinance, to hereafter be known as the Town of Wyoming Building Inspection Ordinance, is hereby enacted as follows, to wit:

**TOWN OF WYOMING
BUILDING INSPECTION ORDINANCE**

Section 1. Definitions. For purposes of this Ordinance, the following terms shall be defined as follows:

Building contractor means any person, whether operating from a place within the town or not, engaged in construction activities in the Town of Wyoming. A general contractor or subcontractor working under the direction of another contractor in charge are also building

contractors.

Construction activities means any erection, construction, installation, enlargement, alteration, improvement, repair, maintenance, removal, conversion, replacement, dismantling, or demolition performed on property in the Town of Wyoming.

Person means any natural person, firm, partnership, company, corporation, or unincorporated association.

Property means any building, structure, property, premises, or lands, including manufactured homes and mobile homes, situated within the Town of Wyoming.

Section 1. Building Inspector and Code Enforcement Constable.

a. Term of Service. The Town Council shall appoint one or more building inspectors who shall serve for a term of one (1) year with no limit to the number of terms that may be served. If a building inspector is unable to complete the one-year term, a successor building inspector may be appointed for the remainder of the term.

b. Appointment. The Town Council may appoint a town employee or an outside contractor to serve as a building inspector. If an outside contractor is an entity, one or more specific individuals employed by the outside contractor shall be appointed by the Town as building inspectors, provided that other employees of the outside contractor may assist the building inspectors as needed.

c. Authority. Building inspectors serve as code enforcement constables pursuant to 10 Del. C. Chapter 29 and are authorized and empowered to enforce this ordinance and all other town ordinances and codes pertaining to building, housing, sanitation, zoning or public health. Building inspectors also serve as “building officials” pursuant to the 2015 International Building Code and 2015 International Residential Code and as “code officials” pursuant to the 2015 International Property Maintenance Code and 2015 International Existing Building Code. Nothing herein shall prohibit the Town from assigning different individuals different enforcement responsibilities.

Section 2. Building Permits.

a. Building Permits Required. Prior to engaging in construction activities, any building contractor, property owner, or other responsible party shall obtain a building permit authorizing the construction activities, along with any required federal, state, county, and/or local agency permits. This Ordinance is intended to be broadly interpreted by building inspectors. If construction activities commence prior to the issuance of the building permit, a stop work order shall be issued until the building permit is obtained.

b. Building Permit Exceptions. Anything herein to the contrary notwithstanding, building permits shall not be required for the following, or any other items specifically exempted from building permit requirements by the 2015 International Residential Code, 2015

International Building Code, or the 2015 International Existing Building Code:

1. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
2. Swings and other playground equipment accessory to a residential dwelling and situated on a residential dwelling lot.
3. The replacement of windows that does not change the size of the window frame.
4. Repairs and replacements to roofs that do not exceed 25% of the roof surface area.
5. Ordinary repairs, provided that there is no cutting away of any walls, partitions or portions thereof, removing or cutting of any structural beam or load bearing support, or removing or changing any required means of egress. Ordinary repairs shall not include the alteration, 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.

c. Application. A building contractor, property owner, or other person responsible for overseeing construction activities shall submit an application for a town building permit that contains the information outlined below. The submission of false or misleading information shall be a violation of this Ordinance.

1. The address of the property where the construction activities will occur and the name and address of the property owner;
2. A description of the construction activities to be performed, and if required by the building inspector to more fully understanding the construction activities, detailed schematic drawings, plans, and/or specifications for the construction activities;
3. The estimated cost of the construction activities;
4. The proposed use for the property, including the nature of any proposed business or commercial purpose;
5. Proof of contractor's insurance for all building contractors, including the name, address, and phone number of the insurance agents; and
6. The name, address, and telephone number of all building contractors performing construction activities at the property. A general contractor shall be responsible for the business license fees for any subcontractor whose name, address, and phone number were not identified in the application and performed work without a town business license.

d. Building Permit Fee. The building permit fee shall be specified in the Town Fee Schedule, and no building permit shall be issued until the building permit fee has been paid.

e. Building Permit Issuance. If the building permit application and all plans, specifications, and schematic drawings conform to the requirements of all town codes and ordinances, upon the payment of the building permit fee, a building permit shall be issued to the applicant. The application shall be either approved or rejected within ten (10) days from the date of filing the application. The application and accompanying plans, specifications, and schematic drawings and any other supporting documentation shall all be considered incorporated into and a part of the final building permit.

f. Revocation of Building Permit. A building inspector may cancel or revoke a building

permit for the following:

1. Any material misrepresentation or false statement in a building permit application;
2. Any material variation, deviation, or departure from the building permit; or
3. Any false statement or misrepresentations as to a material fact relating to the construction activities.

Upon the cancellation or revocation of any building permit, no additional work shall be done except as directed by the building inspector to protect life or property, until the terms of the building permit shall be complied with or until a new building permit shall be issued, including the payment of the building permit fee.

Section 3. Use of Adjacent Streets. A building inspector may grant permission to use the public right-of-way immediately adjacent to the property for which the building permit was issued when necessary to perform the construction activities. The building permit shall state what portion of the right-of-way may be used and shall require the building contractor to keep clear, at all times, all gutters and fire hydrants adjacent to the property and maintain appropriate lighting, as directed by the building inspector, on all street obstructions. The building permit shall require that all sidewalks shall be kept open to travel, provided that if sidewalk travel may be dangerous, the building permit shall require the area affected by such risk to be barricaded, which barricade shall be removed once the risk to the public use has been eliminated.

Section 4. Duration and Expiration of Permits. Building permits shall be valid for the period of time indicated in the Town Fee Schedule, which permit duration shall commence the date the permit is issued. If construction activities authorized by a building permit are not completed prior to the permit's expiration, construction activities shall cease and a new building permit must be applied for and obtained, including the payment of a new building permit fee, before construction activities may continue.

Section 5. Certificate of Occupancy. Upon the completion of construction activities, the building inspector shall issue a certificate of occupancy once the certificate of occupancy fee and inspection fees have been paid pursuant to the Town's Fee Schedule and the building inspector has verified that the construction activities were completed in accordance with all ordinances and codes adopted by the Town and in conformance with the building permit. If a property that was not lawfully inhabited through the duration of the construction activities is occupied prior to a certificate of occupancy being issued, the property shall be vacated until the certificate of occupancy is issued.

Section 6. Improvements Regulated by Other Agencies. Construction activities involving improvements not regulated by the Town of Wyoming, including but not limited to water, sewer, and plumbing improvements, electrical improvements, electrical substations or transformers, stormwater facilities, curb cuts, pavements, streets, roadways, streetlights, and road signs shall be performed in accordance with the requirements of the corresponding federal, state, county, or other local agency with regulatory control over those improvements.

Section 7. Civil Penalties and Enforcement.

a. Ordinance Enforcement. The building inspector shall issue a citation and civil penalty for violations of this Ordinance to the owner of the property where the violation occurred and, if known, to the building contractor performing the construction activities. The property owner and building contractor shall be jointly and severally responsible for the civil penalty. The citation shall include the appeals procedures outlined herein, and shall be posted on the property and either hand delivered or mailed via certified mail to the property owner and any building contractor identified in the citation.

b. Civil Penalties.

1. If construction activities commence prior to the issuance of a building permit, or if a property is occupied prior to the issuance of a certificate of occupancy, the unpaid building permit fee or certificate of occupancy fee (including unpaid inspection fees) shall be twice the amount of those fees outlined in the Town Fee Schedule, which fees shall constitute and be collected as a civil penalty.
2. The civil penalty for all other violations of this Ordinance shall be One Hundred Dollars (\$100.00). Each and every day that a violation of this Ordinance continues shall constitute a separate violation.
3. Civil penalties may be collected through any lawful means available, including by adding unpaid civil penalties to the property tax bill of the property that was the subject of the civil penalty as authorized by 25 *Del. C.* § 2901(a)(1)(i).

c. Appeals Procedures. Whenever a building permit application has been rejected or a citation and civil penalty have been issued hereunder, the building contractor, property owner, or any other responsible party shall have fifteen (15) days from the date of the citation or the building permit application rejection to file a written appeal with the Town Clerk. The Town Clerk shall schedule a date for the town council to hear the appeal, which hearing shall be held as soon as practical within fifteen (15) days of the date of the appeal. The appellant and all other persons affected by the construction activities shall have the right to be heard at the hearing.

d. Legal Action. Anything herein to the contrary notwithstanding, the Town Council or the building inspector may initiate any civil legal action in the name of the Town of Wyoming, at law, in equity, or otherwise, in any court of competent jurisdiction, including but not limited actions seeking injunctive or other affirmative relief.

Section 8. 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 the 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 9. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

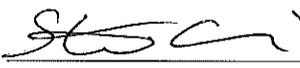
Synopsis

This ordinance authorizes the Town to appoint a town employee or outside contractor as a building inspector for a one-year term. All building inspectors have the same authority as code enforcement constables as outlined in the Delaware Code. This ordinance requires building permits for construction activities in the Town of Wyoming and provides exceptions for minor repairs, the installation of swing sets, painting and other finish work, and window replacement that will not enlarge the window opening and roof replacements that do not exceed 25% of the roof area. This ordinance outlines the information that must be included in a building permit application, including proof of contractor's insurance. Building permit fees and certificate of occupancy fees are as outlined in the Town's Fee Schedule. Building inspectors may cancel or revoke building permits under certain conditions. Building permits may authorize the use of adjacent streets as part of the construction activities, and building permits are good for the period of time specified in the Town Fee Schedule. This ordinance outlines civil penalties for violations of the ordinance, and civil penalties may be added to tax bills pursuant to the Delaware Code. This ordinance includes appeals procedures and authorizes the Town to enforce the ordinance through any legal means.

This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on May 11, 2020.

So Certifies:

Attest: 
Town Clerk


Mayor

This shall certify that a copy of this Ordinance was posted at the Town Hall on May 19, 2020.

So Certifies:

5/19/2020
Date

