

Sponsor: Councilwoman Forbes
First Reading: 02/03/20
Second Reading: 02/18/20
Third Reading: 03/02/20
Ord. No.: 006-20

AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF SMYRNA TO UPDATE THE TOWN'S PROCEDURES FOR GRANTING MOBILE HOME PERMIT FEE REDUCTIONS AND TO REFER TO THE REGULATED STRUCTURES AS MANUFACTURED HOMES

WHEREAS, the Town Council has adopted regulations requiring placement fees for mobile homes, which regulations authorize the Town Council to reduce the mobile home placement fee for individuals 65 years of age or older;

WHEREAS, the regulations currently require the Town Council to vote annually regarding whether or not a reduction in the mobile home placement fee should be granted for individuals 65 years of age or older;

WHEREAS, since the original adoption of the ordinance, the industry standard has shifted to refer to these structures as manufactured homes; and

WHEREAS, in the opinion of the Town Council, it is in the best interest of the public health, safety, and welfare to revise the town's procedures for granting mobile home placement fee reductions and to update the ordinance to refer to manufactured homes.

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 62 (Taxation), Article III (Mobile Home Permit and Fee) of the Town Code of the Town of Smyrna be and hereby is amended as follows:

Section 1. Amend Chapter 62 (Taxation), Article III (Mobile Home Permit and Fee) by making insertions as shown by underline and deletions and shown by strikethrough as follows:

ARTICLE III. – ~~MOBILE~~ MANUFACTURED HOME PERMIT AND FEE

Sec. 62-51. - Definitions.

For purposes of this article, unless the context otherwise clearly indicates:

- (1) ~~Mobile-Manufactured~~ home shall mean a structure, including those sometimes referred to as mobile homes, composed of one or more components, each of which was substantially assembled in a manufacturing plant, built upon a permanent chassis, and designed to be transported to the home site in one or more sections to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. A ~~"mobile home"~~ The term manufactured home shall include any "manufactured

home" as defined by the "National Manufactured Housing Construction and Safety Standards Act of 1974, including the federal regulations adopted pursuant thereto, as amended, or any future corresponding provision of law or regulations. [42 U.S.C. § 5402 (6); 24 C.F.R. § 3280-21; but a "~~mobile~~ manufactured home", shall not include any "modular home" excluded from the coverage of the National Manufactured Housing Construction and Safety Act of 1974 (or any future corresponding provision of law) under 24 C.F.R. § 3282.12, as amended, or any future corresponding federal regulation.]

- (2) *Owner of a ~~mobile~~ manufactured home* means the person or persons designated on the motor vehicle title of the ~~mobile~~ manufactured home whether the title is issued by this state or by some other state.

Sec. 62-52. - Permit required prior to moving ~~mobile~~ manufactured home into town.

Every owner of a ~~mobile~~ manufactured home, before moving the same into the town, shall apply for and obtain from the town manager or his authorized agent a ~~mobile~~ manufactured home permit under this ordinance for such ~~mobile~~ manufactured home. The town manager or his authorized agent shall issue no ~~mobile~~ manufactured home permit until the permit fee required by this article is paid in full. In accordance with the town zoning ordinance, ~~mobile~~ manufactured homes shall not be permitted in any zoning district other than the mobile home park district.

Sec. 62-53. - Permit.

- (a) The owner of a ~~mobile~~ manufactured home shall obtain an annual permit for it and shall pay a fee as outlined in the town's fee schedule for each such permit. Such permit shall be obtained and the permit fee paid by January 1 of each year and if such fee is not paid before February 1 of such year, then the amount shall be past due and a penalty of ten percent per month (or any portion thereof) shall accrue on the unpaid balance of the permit fee. The annual permit fee shall be reviewed annually as part of the budget process or whenever the town's real estate property tax rate is revised and adjusted accordingly.
- (b) Anything in this article to the contrary notwithstanding, whenever a ~~mobile~~ manufactured home is moved into the town, payment of the permit fee shall be prorated on a monthly basis for each fractional part of a year during which the ~~mobile~~ manufactured home is in the town. If all or any portion of the permit fee is not paid prior to the ~~mobile~~ manufactured home being placed in the town, the unpaid amount shall be past due and a penalty of ten percent per month (or any portion thereof) shall accrue on the unpaid balance of the permit fee. No refunds shall be made to any permittee who sells or moves a ~~mobile~~ manufactured home after the fee has been paid.
- (c) Once the annual permit fee has been paid by the owner of the ~~mobile~~ manufactured home, he or she may be issued a sticker or other evidence of payment by the town manager or his authorized agent. If issued by the town, the sticker or other evidence of payment must be placed upon the right front of the ~~mobile~~ manufactured home facing the street three feet above finished grade and one foot over from the side of the ~~mobile~~ manufactured home.
- (d) For purposes of assessing real property taxes, any ~~mobile~~ manufactured home required to obtain a permit under this article shall be considered personal property, severable from the land upon which it is located, and not included for purposes of real property tax assessment,

regardless of the manner in which it is attached to or affixed to the real estate upon which it is located.

- (e) Any ~~mobile~~ manufactured home permit fees that are past due as outlined in this section are a debt owed to the town, and the town may forward the collection of delinquent ~~mobile~~ manufactured home permit fee accounts (including all authorized penalties and interest) to a third-party collection agency in accordance with section 2-71 ("Use of third-party collection agency").

Sec. 62-54. - Duties of ~~mobile~~ manufactured home park operator.

- (a) Copies of this article and town ~~mobile~~ manufactured home permit application forms shall be furnished to each ~~mobile~~ manufactured home park operator who shall give a copy of same to every ~~mobile~~ manufactured home owner who applies to the operator to move a ~~mobile~~ manufactured home into that operator's park. The ~~mobile~~ manufactured home park operator shall provide those documents at the time the operator accepts the ~~mobile~~ manufactured home owner's application to move the ~~mobile~~ manufactured home into that park. The ~~mobile~~ manufactured home park operator shall also provide those documents to any person who purchases or acquires title to a ~~mobile~~ manufactured home already located within that park.
- (b) ~~Mobile Manufactured~~ home park operators shall maintain a lease record which shall be open for inspection at all times by the town manager or his authorized agent. Before June 1st of each year, the ~~mobile~~ manufactured home park operator shall report to the town manager, the names and addresses of all persons having ~~mobile~~ manufactured homes on his land.

Sec. 62-55. - Use of town utilities.

The owner or occupant of any ~~mobile~~ manufactured home shall not be entitled to receive town utilities until the permit fee required by this article is paid in full and town personnel shall refuse to provide sewage, water and electricity to the ~~mobile~~ manufactured home until satisfactory proof is furnished that such permit fee has been paid.

Sec. 62-56. - Exemptions.

This article shall not apply to:

- (1) Unoccupied ~~mobile~~ manufactured homes located on a dealer's display lot;
- (2) ~~Mobile Manufactured~~ homes being transported through the town;
- (3) ~~Mobile Manufactured~~ homes legally existing in the town limits prior to the adoption of the ordinance from which this article derives which are placed on a lot deeded under the same ownership as the ~~mobile~~ manufactured home.

Sec. 62-57. - Violations, penalty.

Any person violating any of the provisions of this article shall be guilty of a criminal violation and, upon conviction, be subject to criminal penalties as provided under section 1-11 of this Code.

Sec. 62-58. - Reduction in annual ~~mobile~~ manufactured home placement permit fee for persons 65 years of age or older.

- (a) *Exemption Reduction amount.* ~~By the first regular council meeting in November of each year, the town council shall annually vote to determine whether or not a mobile home placement permit exemption shall be made available for the upcoming year to eligible applicants and if so the amount of the exemption. A 50% reduction of the manufactured home placement permit fee shall be made available to eligible applicants for each year in which they are eligible for the reduction.~~
- (b) *Eligibility.* To be eligible for a ~~mobile~~ manufactured home placement permit ~~exemption~~ reduction under this section, applicants shall:
- (1) Be legally domiciled within the Town of Smyrna, Delaware;
 - (2) Be 65 years of age or over;
 - (3) Own the ~~mobile~~ manufactured home for which the ~~exemption~~ reduction is sought and have continuously resided therein for at least one year prior to February 1 of the year for which the ~~exemption~~ reduction is sought; and
 - (4) Have had an income for the tax year that most recently concluded prior to the application deadline for applying for the ~~exemption~~ reduction that does not exceed:
 - a. —~~\$24,000~~ \$30,000 for an individual applicant; or
 - b. —~~\$30,000~~ \$35,000 for applicants living in the same dwelling and filing jointly.

For purposes of this section, the applicant's income means all income from whatever source derived (other than Social Security, Veteran Disability Compensation, and Railroad Pension) including capital gains, pension annuities and retirement.

- (c) *Filing procedures.* To be considered for a ~~mobile~~ manufactured home placement permit ~~exemption~~ reduction under this section, an applicant shall file a placement permit ~~exemption~~ reduction application at Town Hall by the first Friday in December by 4:30 p.m. The application shall include:
- (1) A copy of the applicant's IRS Form 1040 or a statement by the applicant that the applicant was not required to file a Federal IRS 1040 form for the income received in the most current calendar year immediately preceding the application deadline;
 - (2) A copy of a picture ID for the applicant showing the applicant's birth date;
 - (3) A statement of income for the applicant and the applicant's spouse (if applicable);
 - (4) The names of other owners of the same dwelling;
 - (5) The address of the dwelling for which the permit ~~exemption~~ reduction is sought; and
 - (6) Additional information deemed necessary by the town.
- (d) *Approval of applications.* Prior to second council meeting in December of each year, the town manager's office shall review all placement permit ~~exemption~~ reduction applications, giving prompt written notice to the applicant of any application not approved, which written notice shall include the procedures outlined herein for appealing the denial of an application.
- (e) *Appealing denied applications.* Any applicant whose placement permit ~~exemption~~ reduction application was denied by the town manager may appeal that decision to the town council, the date and time of which shall be set annually by the town council, by filing a written appeal

with the town at least seven business days prior to the second council meeting in January, which written appeal shall include the grounds for the appeal, the appellant's daytime phone number, the names of any witnesses that will be testifying, whether the appellant will be represented by an attorney, and the amount of time needed for the appeal (not to exceed 20 minutes). After hearing the appeal, the town council will render a written decision within 30 days of the appeal. The deadline for any permit fee required pursuant to the town council's decision shall be 30 days from the date the decision is mailed to the applicant.

- (f) *Property with multiple owners.* Where more than one owner of the same dwelling is seeking a placement permit ~~exemption~~ reduction, each owner shall file a separate application in accordance with the requirements of this section; provided that applicants owning property as tenants by the entirety (i.e. husband and wife) shall only be required to file one application. In addition to being subject to the requirements of this section, the right to claim a placement permit ~~exemption~~ reduction for owners of property that is held by more than one person (as tenants in common, joint tenants, or tenants by the entirety), or by partnerships or fiduciaries, shall be governed by the provisions of 22 Del. C. § 1004.

Sec. 62-59. - Reserved.

Section 2. Amend Chapter 2 (Administration), Article III (Finance), Division 1 (Generally), by making insertions as shown by underline and deletions and shown by strikethrough as follows:

Sec. 2-71. - Use of third-party collection agency.

Any amounts owed to the town including, but not limited to, real property taxes, ~~mobile~~ manufactured home permit fees, usage and service fees for water, sewer, and electric services, grass and weed cutting fees, sidewalk repair fees, and engineering fees that have not been paid by the due date outlined in the Town Code, Town Charter, or on the corresponding invoice are a debt owed to the town, and the town may forward the collection of the delinquent accounts (including all authorized penalties and interest) to a third-party collection agency. The cost of the third-party collection agency shall be added to the past due amounts on the delinquent account, which collection cost amount shall not exceed 15 percent of the total amount owed to the town (including all authorized penalties and interest). At least seven days prior to forwarding a delinquent account to a third-party collection agency, if the town has reason to believe the property owner or holder of the delinquent account still resides at the property in question, the town shall send written notice that failure to pay the outstanding amounts will result in the town forwarding the account to a collection agency. The town may satisfy this notice requirement by providing written notice in the original invoice sent to the property owner or account holder.

Section 3. 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 4. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This ordinance eliminates the need for the Town Council to vote annually on granting a mobile home placement permit fee reduction. This ordinance clarifies that all eligible applicants qualify for a 50% reduction each year, and this ordinance increases the maximum income levels for eligible applicants. This ordinance updates the term mobile home to manufactured home in accordance with the industry standard.

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