

**ORDINANCE NO. 05-20**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REPEALING CHAPTER 46, FIRE PREVENTION CODE - LOCAL AMENDMENTS, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; ADOPTING A NEW CHAPTER 46 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN ENTITLED FIRE PREVENTION AND PROTECTION; PROVIDING FOR ADOPTION OF THE FLORIDA FIRE PREVENTION CODE AND AMENDMENTS THERETO, GENERAL PROVISIONS, PLAN REVIEW, PERMITTING, INSPECTION FEES, AND AUTOMATIC FIRE PROTECTION EXTINGUISHING SYSTEMS; DIRECTING TRANSMITTAL TO THE FLORIDA BUILDING COMMISSION AND THE STATE FIRE MARSHALL; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, in 1998 the Florida Legislature passed enabling legislation creating the Florida Fire Prevention Code; and

**WHEREAS**, the enabling legislation and Florida Statutes require the State Fire Marshall to adopt a new edition of the Florida Fire Prevention Code every third year; and

**WHEREAS**, the State Fire Marshall, pursuant to §633.0215, Florida Statutes, has adopted the latest triennial version of the Florida Fire Prevention Code which contains or incorporates by reference all firesafety laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules; and

**WHEREAS**, said triennial version of the Florida Fire Prevention Code became effective throughout the state of Florida on January 1, 2005; and

**WHEREAS**, pursuant to §633.025(2), Florida Statutes, the City of Winter Garden is responsible for enforcing the Florida Fire Prevention Code; and

**WHEREAS**, the City of Winter Garden actively participates in the enforcement of firesafety regulations for the benefit of the public safety of its citizens; and

**WHEREAS**, the City of Winter Garden desires to adopt local amendments to the Florida Fire Prevention Code to strengthen the requirements of the minimum firesafety code and provide a higher level of protection to the public than the level specified in the Florida Fire Prevention Code by providing for certain administrative matters, the imposition of built-in fire protection systems or fire-related infrastructure requirements needed to properly protect specified facilities and by establishing a local fee structure for plan reviews, inspections and the issuance of certain permits; and

**WHEREAS**, in the experience of the Winter Garden Fire Department, requiring automatic fire protection systems in the past has limited, controlled or completely extinguished fires before the fire department could reach the scene thereby protecting far greater loss to property and lives; and

**WHEREAS**, the requirement of fire sprinkler systems in certain structures is a more stringent requirement than provided within the Florida Fire Prevention Code, however, based on a review of local conditions, the City Commission finds that the same is needed for the protection of life and property within the City of Winter Garden; and

**WHEREAS**, after public notice and due consideration of public comment, the City

Commission of the City of Winter Garden hereby finds and declares the adoption of this Ordinance is necessary and appropriate to advance and serve the health, safety and general welfare of the citizens of Winter Garden, Florida; now, therefore,

**BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:**

**SECTION 1.** The City Commission of the City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and Chapter 633, Florida Statutes.

**SECTION 2.** Chapter 46 of the Code of Ordinances of the City of Winter Garden, Florida is hereby repealed.

**SECTION 3.** A new Chapter 46 of the Code of Ordinances of the City of Winter Garden, Florida, is hereby adopted and stated in its entirety as follows:

**CHAPTER 46**

**FIRE PREVENTION AND PROTECTION**

**ARTICLE I. General Provisions**

**Sec. 46-1. Adoption of the Florida Fire Prevention Code.**

The Florida Fire Prevention Code adopted by the State Fire Marshal pursuant to Section 633.0215, Florida Statutes, and as such may be amended, modified, updated or adopted every third year by the State Fire Marshal, including referenced and adopted publications therein as set forth in Chapter 633, Florida Statutes, and Chapter 69A-60, Florida Administrative Code, including but not limited to the NFPA 101, the Life Safety Code, Florida and the NFPA 1, the Uniform Fire Code, Florida, is hereby recognized, adopted, and incorporated herein by this reference by the City of Winter Garden, save and except such portions as are deleted, modified, added or amended in this Chapter. One copy of the foregoing is on file in the office of the Fire Chief.

**Sec. 46-2. Authority.**

The regulations in this Chapter are enacted under the general home rule powers of the City and pursuant to Chapter 633 of the Florida Statutes for the purpose of establishing firesafety regulations pertaining to and governing the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of firesafety laws and rules pertaining to the foregoing. Designated parts of this Chapter are intended to be local amendments to the Florida Fire Prevention Code which strengthens the requirements of the minimum firesafety code and provides a higher level of protection to the public than the level specified in the Florida Fire Prevention Code.

**Sec. 46-3. Applicability; purpose.**

This Chapter shall apply and be enforced in all areas of City jurisdiction. The purpose of this Chapter is to prescribe minimum requirements necessary to establish a reasonable level of fire safety and property protection from the hazards created by fire, explosion, and dangerous conditions.

**Sec. 46-4. Administration; Delegation.**

Wherein referenced in the Florida Fire Prevention Code, the term "Authority Having Jurisdiction" shall mean and refer to the City of Winter Garden, Florida, and the City hereby delegates to the City Fire Chief such powers as necessary for the administration and enforcement of this Chapter. The City of Winter Garden Fire Chief shall be the administrative official for the provisions of this Chapter. Whenever a provision appears requiring the Fire Chief, the Fire Department or some other officer or employee to do some act or perform some duty, it is to be construed to authorize the Fire Chief to designate, delegate and authorize qualified individuals or professional level subordinates to perform the required act or duty unless the terms of the

provisions or section specify otherwise.

**Sec. 46-5. Violations.**

- (a) In this Chapter "violation" means:
  - (1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by this Chapter or by rule or regulation authorized by this Chapter;
  - (2) Failure to perform an act that is required to be performed by this Chapter or by rule or regulation authorized by this Chapter; or
  - (3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by this Chapter or by rule or regulation authorized by this Chapter.
- (b) In this Chapter "violation" does not include the failure of a City officer or City employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this Chapter.
- (c) Except as otherwise provided by law or ordinance, any person, whether as owner, lessee, principal, agent, employee, permittee, contractor or otherwise, who violates any of the provisions of this Chapter, or permits any such violation to continue, or otherwise fails to comply with the requirements of this Chapter or of any plan or statement submitted and approved under the provisions of this Chapter, shall be subject to enforcement procedures provided in Chapter 2 of the Winter Garden Code of Ordinances dealing with code violations, including by use of the City's Code Enforcement Citation Program or Code Enforcement Board.
- (d) No provision of this article shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provision of this Chapter or any rule, regulation, requirement or directive promulgated under the Chapter, whether administratively, judicially or both. Neither the existence of other remedies identified in this Chapter nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover fines, penalties or monetary damages for such violation or judicial enforcement of the obligations by means of specific performance, injunctive relief or mandate or any other administrative remedy or judicial remedy at law or in equity.

**Sec. 46-6. Duties of City Attorney.**

Under this Chapter, the City Attorney shall, upon authorization of the City Commission:

- (a) Prosecute all persons failing to comply with this Chapter.
- (b) Bring suit to collect all municipal liens, assessments, expenses or costs incurred by the enforcing authority in enforcing compliance with this Chapter or in bringing suit under Section 46-6(a) or (c).
- (c) Take such other legal action as is necessary to carry out the terms of this Chapter.

**Sec. 46-7. Attorney's Fees and Costs.**

If the City brings suit to collect liens, expenses, costs, assessments or to restrain, enjoin or otherwise prevent or remedy any violation of this Chapter, the City is entitled to recover reasonable attorneys' fees and court costs from the named Defendant in the action.

**Sec. 46-8. References to Board of Appeals.**

Any references made in the regulations adopted in Section 46-1 to the Board of Appeals shall refer to the City Commission.

**Sec. 46-9. Clarification of duties and responsibilities.**

- (a) Section 1.3.3.1 of NFPA 1 is amended to read: When a requirement differs between this Chapter and a referenced document or other provision of the City Code or ordinance, the requirement of this Chapter shall apply.
- (b) Wherein the Florida Fire Prevention Code reference is made to the duties of certain officials named therein, that designated official in the City who has duties corresponding to those of the named official in the Code shall be deemed to be the responsible official insofar as enforcing the provisions of the Code are concerned.

**Sec. 46-10. Appeals.**

Appeals from the decision of the Fire Chief shall be to the City Commission in accordance with the appeals procedure in the regulations adopted in Section 46-1.

**Sec. 46-11 – 46-55. Reserved.**

**ARTICLE II. PLAN REVIEW; PERMITTING; INSPECTION FEES.**

**Sec. 46-56. Construal of Permit; Validity; Effect.**

The issuance or granting of a permit or approval of plans and specifications by the City shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this Chapter. No permit presuming to give authority to violate, amend or cancel the provisions of this Chapter shall be valid, except so far as the work or use which it authorizes is lawful. The issuance of a permit upon plans and specifications shall not prevent the Fire Department from thereafter requiring the correction of errors in such plans and specifications nor from prohibiting the starting or continuance of work thereunder when in violation of this Chapter or of any other provisions of this Chapter.

**Sec. 46-57. Permitting and Inspection.**

The inspection, approval or permitting of any building, system or plan by the City, under the requirements of this Chapter shall not be construed or otherwise interpreted as a warranty of the physical condition of such building, system or plan or their adequacy. Neither the City nor any employee thereof shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting, unless the employee is found to have acted in bad faith or with malicious purpose in a manner exhibiting wanton and willful disregard for safety, health and welfare of the public.

**Sec. 46-58. Plan Review; Permits.**

The Fire Department shall perform a review of all pertinent building plans and specifications submitted to the Building Department in order to determine whether such plans and specifications comply with this Chapter. Separate inspections and permits will be required for fire protection systems. In addition to any fees paid at the time of application for a building permit pursuant to Chapter 18 of the City Code, at the time of such application, the applicant shall also pay the following non-refundable plan review fee for review by the Fire Department to be collected by the Building Department:

- (a) Plan Review:
  - (1) Single-Family Residential: no fee

- (2) Non-Single-Family Residential: one-half of one percent ( $\frac{1}{2}$  of 1%) of value of construction.
- (b) Value of construction for purposes of calculating the above fee shall be determined in accordance with Chapter 18 of City Code.
- (c) Plan review fees shall not be charged for construction projects when construction plans or drawings are not required.

**Sec. 46-59. Fire Permits.**

After the issuance of a Building Permit for an improvement that requires a fire protection system, the Fire Department shall review the plans for, and inspect the final fire system for compliance with all adopted regulations and specifications. If found in compliance, the Fire Department shall approve the fire permit. Prior to the issuance of the fire permit, the Building Official shall collect a fee for such review, by the Fire Department. Said fee shall be calculated in the same manner as the building permit fees as determined per Section 18-57 per the cost of the fire protection system.

**Sec. 46-60. Reinspection; Fees.**

In the event that the Fire Department, upon initial inspection, shall find work not in compliance with this Chapter, the person doing said work shall promptly do everything necessary to bring said work within the requirements of this Chapter. The Fire Department shall then, upon notice from such person, reinspect said work after payment of the following fees, which shall be collected by the Building Department:

- (a) Initial inspection: No charge.
- (b) First reinspection: No charge.
- (c) Second reinspection: Fifty dollars (\$50.00).
- (d) Each additional reinspection for the same noncompliance after the second reinspection shall be increased twenty-five dollars (\$25.00) per reinspection, cumulatively. By way of example not limitation, the third reinspection for the same noncompliance shall be seventy-five dollars (\$75.00); the fourth reinspection for the same noncompliance shall be one hundred dollars (\$100.00) and so forth.

**Sec. 46-61. Burn Permits.**

Section 10.11.1.1. of NFPA 1 is amended to read as follows: Permits shall be obtained from the City for all open fires. During construction or demolition of any building or structure, no waste materials or rubbish may be disposed of by burning. Burn permits, if issued, are subject to the following:

- (a) Period of Issuance. Burn permits shall be issued for a five (5) day period and for the hours as specified on the permit.
- (b) Grounds for Revocation/Denial. Burn permits shall be revoked or denied if the Fire Department determines that the burning is detrimental to surrounding property or persons, or that conditions may cause the burning to be unsafe or the burn permit is issued in error or in contravention to the Code.
- (c) Permit Fee. The fee for a burn permit issued pursuant to this section is a non-refundable one hundred dollars (\$100.00) and shall be collected by the Building Department.

**Sec. 46-62. Other Inspections; Fees.**

The Fire Department shall also perform the following inspections, which shall have the permit fees indicated:

- (a) A firework permit shall be required for the sale, on-site handling, manufacturing, and storage of consumer fireworks and an inspection shall also be required. The firework permit fee shall be in the amount of fifty dollars (\$50.00).
- (b) Fire Hydrant Flow Tests - Fifty dollars (\$50.00) per hydrant if conducted by Fire Department.

The permit fees set forth in this Section shall be collected by the Fire Department.

**Sec. 46-63 – 46-75. Reserved.**

**ARTICLE III. AUTOMATIC FIRE  
PROTECTION SYSTEMS**

**Sec. 46-76. Adoption of Standards.**

The National Fire Protection Association standards as referenced by the Florida Fire Prevention Code adopted in Section 46-1, are adopted for the purpose of establishing rules and regulations governing the installation of automatic fire protection systems, including but not limited to automatic sprinkler systems and alarms, in certain classes of buildings provided for herein. Said standards are adopted and incorporated herein as if set out in length in this Section, save and except such portions as are deleted, modified, added or amended in this Article. One copy of the foregoing is on file in the office of the Fire Chief.

**Sec. 46-77. Required.**

- (a) Subject to subparagraphs (b)-(e) below, Section 13.3.1.1. of NFPA 1 is amended to require the installation and maintenance in full operating condition automatic sprinklers in the occupancies specified therein and in the following occupancies:
  - (1) New Commercial Buildings, as of the effective date of this Ordinance, when the gross square footage exceeds 4,000 square feet.
  - (2) Existing Commercial Buildings when the gross square footage exceeds 4,000 square feet and a change of occupational classification occurs under the provisions of Chapter 3 of the Florida Building Code.
  - (3) Existing Commercial Buildings when any or all additions to the building will result in the building having a gross square footage in excess of 4,000 square feet.
  - (4) Residential structures when converted to commercial structures and such conversion results in a building having a gross square footage in excess of 4,000 square feet.
  - (5) Buildings categorized in the Ordinary Hazard Occupancies (Group 3) or Extra Hazard Occupancies (Group 1 and 2), as defined in NFPA, 13, as deemed necessary by the City Fire Chief.
  - (6) Hotels and motels, regardless of gross square footage or number of stories.

- (7) Multifamily residential units consisting of three (3) or more dwelling units, regardless of square footage or number of stories.
- (8) Throughout the entire building of every building, regardless of occupancy or type of construction, over forty (40) feet in height.
- (b) New construction and additions to existing structures are considered part of the original structure for the purpose of determining total square footage for the fire sprinkler protection.
- (c) In the event a building falls into more than one category, the more stringent category shall apply.
- (d) Any building or occupancy not otherwise categorized herein shall be categorized as a commercial building for purposes of this Section.
- (e) For purposes of this section, the term “gross square footage” means the total floor area, measured in square feet, of any building including all areas under roof or mezzanines.

**SECTION 3. Codification.** Section 2 of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances. Sections of this Ordinance may be renumbered or relettered and the word “Ordinance” may be changed to “Chapter,” “Section,” “Article” or such other appropriate word or phrase in order to accomplish the intention of this Section; and Sections of this Ordinance may be renumbered or relettered and the correction of typographical errors which do not affect the intent may be authorized by the City Manager, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

**SECTION 4. Effective Date.** This Ordinance shall become effective immediately upon its passage and adoption.

**SECTION 5. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this Ordinance. The City Commission declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more of section, subsection, sentence, clause, phrase or portion would be declared invalid or unconstitutional.

**SECTION 6. Transmittal of New Chapter.** The City Clerk is hereby directed to transmit a certified copy of this Ordinance to the Florida Building Commission and the State Fire Marshal within thirty (30) days of enactment thereof.

FIRST READING: \_\_\_\_\_, 2005.

SECOND READING AND PUBLIC HEARING HELD: \_\_\_\_\_, 2005.

APPROVED:

\_\_\_\_\_  
Jack Quesinberry, Mayor/Commissioner

ATTEST:

\_\_\_\_\_  
KATHY GOLDEN, City Clerk

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