

## TITLE 12

### BUILDING, UTILITY, ETC. CODES<sup>1</sup>

#### CHAPTER

1. BUILDING CODE.
2. EXISTING BUILDING CODE.
3. EXCAVATION AND GRADING CODE.
4. MECHANICAL CODE.
5. PLUMBING CODE.
6. INTERNATIONAL RESIDENTIAL CODE.
7. MODEL ENERGY CODE.
8. INTERNATIONAL PROPERTY MAINTENANCE CODE.
9. CODES ENFORCEMENT AND INSPECTION DIVISION.
10. CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS.

#### CHAPTER 1

### BUILDING CODE

#### SECTION

- 12-101. Building code adopted.  
 12-102. Modifications.  
 12-103. Code available in clerk's office.  
 12-104. Violation and penalty.

**12-101. Building code adopted.**<sup>2</sup> The International Building Code, 2006 edition, and amendments thereto, is hereby adopted and incorporated by reference as part of this municipal code, and is hereinafter referred to as the building code. (Ord. # 04-46, Dec. 2004, modified)

**12-102. Modifications.** Whenever the building code refers to the "chief appointing authority" it shall be deemed to be a reference to the town manager. The building code is adopted with the following exceptions:

- (1) Chapter 3, § 308.5.2 child care facility, the exception is deleted.

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<sup>1</sup>Municipal code references

Fire code: title 7.

Gas code: title 19.

Slum clearance: title 13, chapter 2.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(2) Chapter 9, §903.2.7 group R, add "Exception: Group R-3 one and two family dwellings shall not be required to install an automatic fire sprinkler system except where special conditions exist as determined by the authority having jurisdiction.

(3) Chapter 9, § 907.2.2 Group B, the occupant load is changed from 500 to 200.

(4) Appendix B shall be adopted. (Ord. #04-46, Dec. 2004, modified)

**12-103. Code available in clerk's office.** At least one (1) copy of the building code has been placed in the town clerk's office, and shall be kept there for the use and inspection of the public. (1991 Code, § 12-103)

**12-104. Violation and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

## CHAPTER 2

### EXISTING BUILDING CODE

#### SECTION

- 12-201. Existing building code adopted.
- 12-202. Modification of designated official.
- 12-203. Code available in clerk's office.
- 12-204. Violation and penalty.

**12-201. Existing building code adopted.**<sup>1</sup> The International Existing Building Code, 2006 edition, and amendments thereto, is hereby adopted and incorporated by reference as part of this municipal code, and is hereinafter referred to as the existing building code. (Ord. # 04-46, Dec. 2004, modified)

**12-202. Modification of designated official.** The building official or his designee of the Town of Smyrna, who has duties corresponding to the duties of officials named in the International Existing Building Code, as adopted by the Town of Smyrna, shall be responsible for the enforcement of the existing building code provisions. (Ord. #04-46, Dec. 2004, modified)

**12-203. Code available in clerk's office.** At least one (1) copy of the existing building code has been placed in the town clerk's office, and shall be kept there for the use and inspection of the public. (1991 Code, § 12-403)

**12-204. Violation and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

## CHAPTER 3

### EXCAVATION AND GRADING CODE

#### SECTION

- 12-301. Grading and excavation code adopted.
- 12-302. Modification of designated official.
- 12-303. Code available in clerk's office.
- 12-304. Application for grading.
- 12-305. Plans and specifications.
- 12-306. Issuance of permit.
- 12-307. Engineering review fees.
- 12-308. Violation and penalty.

**12-301. Grading and excavation code adopted.**<sup>1</sup> The Standard Excavation and Grading Code, 1975 edition, and amendments thereto, is hereby adopted and incorporated by reference as part of this municipal code, and is hereinafter referred to as the excavation and grading code. (1991 Code, § 12-501)

**12-302. Modification of designated official.** The director of public works or his designee of the Town of Smyrna, who has duties corresponding to the duties of officials named in the Standard Excavation and Grading Code, as adopted by the Town of Smyrna, shall be responsible for the enforcement of the excavation and grading code provisions. (1991 Code, § 12-502, modified)

**12-303. Code available in clerk's office.** At least one (1) copy of the excavation and grading code has been placed in the town clerk's office, and shall be kept there for the use and inspection of the public. (1991 Code, § 12-503)

**12-304. Application for grading.** (1) To obtain a permit the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every such application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made;
- (b) Describe the land on which the proposed work is to be done, by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
- (c) Be accompanied by plans and specifications as required in § 12-305 of this code;

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

- (d) State the estimated quantities of work involved.
  - (e) Be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority;
  - (f) Information that shall be required includes:
    - (i) Temporary cover during the grading and development period.
    - (ii) Permanent grass and vegetative cover for the area.
    - (iii) Stabilization by means of mulching (non-vegetative materials).
    - (iv) Sodding the area subject to erosion.
    - (v) Use of low-growing plants, vines, shrubs or other ground covers to stabilize sediment-producing areas.
    - (vi) Constructing diversionary channels and terraces across the slope.
    - (vii) Construction of structures that will stabilize the grade in water channels.
    - (viii) Sediment basins constructed in such manner that failure of the structure would not result in loss of life or interruption of use or service of public utilities.
    - (ix) Use of grassed waterways for the safe disposal of run-off water.
    - (x) Staging development to avoid having large areas in an erosive condition at one time.
    - (xi) Utilization of existing topography in planning development to minimize erosion, such as planning roadways parallel to contours.
    - (xii) Leaving critical areas in an undisturbed condition or correction of critical areas which cause erosion hazard.
- (2) Information on plans. Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared.
- (3) The plans shall include the following information:
    - (a) General vicinity of the proposed site.
    - (b) Property limits and accurate contours of existing ground and details of terrain and area drainage.
    - (c) Limiting dimensions, elevations or finish contours to be achieved by the grading, and proposed drainage channels and related construction.
    - (d) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work together with a map

showing the drainage area and the estimated run-off of the area served by any drains. Upstream drainage must be considered and explained if any adverse effect is possible. Plans for removal, recontouring or other final disposition of sediment basins or other structural improvements or devices shall be included in the plan. If a sedimentation basin is required, it should be designed by registered engineers in accordance with property guidelines.

(e) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed grading operations.

Specifications shall contain information covering construction and material requirements.

(f) All elevations must be stated in Mean Sea Level Datum and this fact indicated in a note on the plan sheet.

(g) Location of areas of proposed paving.

(h) Limits of vegetative clearing.

(i) Estimates of exposed time of denuded land.

(j) Plans for vegetation re-establishment.

(k) A schedule for performance of all earthwork, earth stabilization, and reclamation activities.

(l) A soil erosion control plan which shall include the following items:

(i) Minimize grading. The plan should relate to the specific site conditions, and should keep land grading and land disturbance to a minimum under the circumstances.

(ii) Storm drainage. Both surface and underground stormwater drainage systems should be integrated to accommodate the increased runoff incurred during land grading.

(iii) Cover. Existing and future protective vegetative cover should be emphasized, and grading operations and sediment control measures should be minimize land exposure to erosion.

(iv) Sediment basins. Sediment basins for high sediment producing areas should be planned, installed, and maintained as safety devices to catch and trap excessive sediment from the development site.

(v) Use of low-growing plants, vines, shrubs or other ground covers to stabilize sediment-producing areas.

(vi) Constructing diversionary channels and terraces across the slope.

(vii) Construction of structures that will stabilize the grade in water channels.

(viii) Sediment basins constructed in such manner that failure of the structure would not result in loss of life or interruption of use or service of public utilities.

(ix) Use of grassed waterways for the safe disposal of run-off water.

(x) Staging development to avoid having large areas in an erosive condition at one time.

(xi) Utilization of existing topography in planning development to minimize erosion, such as planning roadways parallel to contours.

(xii) Leaving critical areas in an undisturbed condition or correction of critical areas which cause erosion hazard.

(xiii) Within any sinkhole, no fill shall be used without approval of the town engineer and the Tennessee Department of Environment and Conservation. (1991 Code, § 12-504, modified)

**12-305. Plans and specifications.** When required each application for a grading permit shall be accompanied by two sets of plans and specifications, and supporting data consisting of a soil engineering report and engineering geology report. The plans and specifications shall be prepared and signed by a civil engineer. (1991 Code, § 12-505, modified)

**12-306. Issuance of permit.** The application, plans, and specifications filed by an applicant for a permit shall be checked by the director of public works or his designee. Such plans shall be reviewed by the director of public works or his designee to check compliance with all applicable laws and ordinances. If the director of public works or his designee is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees specified in this chapter have been paid, he may issue a permit therefor to the applicant. The director of public works may at his discretion require approval by the planning commission prior to issuance of a grading permit.

When the director of public works or his designee issues the permit, he shall endorse in writing or stamp on both sets of plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the director of public works or his designee and all work shall be done in accordance with the approved plans. (1991 Code, § 12-506, modified)

**12-307. Engineering review fees.** The director of public works or his designee shall also make the necessary site inspection(s) and make appropriate recommendations thereof, prior to the issuance of a cut and fill permit.

The fees are established in the fee schedule, adopted with the annual budget. (1991 Code, § 12-507, modified)

**12-308. Violation and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

## CHAPTER 4

### MECHANICAL CODE

#### SECTION

- 12-401. Mechanical code adopted.
- 12-402. Modification of designated officials.
- 12-403. Code available in clerk's office.
- 12-404. Violation and penalty.

**12-401. Mechanical code adopted.**<sup>1</sup> The International Mechanical Code, 2006 edition, and amendments thereto, is hereby adopted and incorporated by reference as part of this municipal code, and is hereinafter referred to as the mechanical code. (Ord. #04-46, Dec. 2004, modified)

**12-402. Modification of designated officials.** The building official or his designee of the Town of Smyrna, who has duties corresponding to the duties of officials named in the International Mechanical Code, as adopted by the Town of Smyrna, shall be responsible for the enforcement of the mechanical code provisions. (Ord. #04-46, Dec. 2004, modified)

**12-403. Code available in clerk's office.** At least one (1) copy of the mechanical code has been placed in the town clerk's office, and shall be kept there for the use and inspection of the public. (1991 Code, § 12-803)

**12-404. Violation and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

**CHAPTER 5****PLUMBING CODE****SECTION**

12-501. Plumbing code adopted.

12-502. Modifications of designated official.

12-503. Code available in clerk's office.

12-504. Violation and penalty.

**12-501. Plumbing code adopted.** The International Plumbing Code, 2006 edition, and amendments thereto, is hereby adopted and incorporated by reference as part of this municipal code, and is hereinafter referred to as the plumbing code. (Ord. #04-46, Dec. 2004, modified)

**12-502. Modification of designated official.** The building official or his designee of the Town of Smyrna, who has duties corresponding to the duties of officials named in the International Plumbing Code, as adopted by the Town of Smyrna, shall be responsible for the enforcement of the plumbing code provisions. (Ord. #04-46, Dec. 2004, modified)

**12-503. Code available in clerk's office.** At least one (1) copy of the plumbing code has been placed in the town clerk's office, and shall be kept there for the use and inspection of the public. (1991 Code, § 12-903)

**12-504. Violation and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

## CHAPTER 6

### INTERNATIONAL RESIDENTIAL CODE

#### SECTION

12-601. International residential code adopted.

12-602. Modifications.

12-603. Available in clerk's office.

12-604. Violations.

**12-601. International Residential Code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the fabrication, erection, construction, enlargement, alterations, repair, location, and use of detached one and two family dwellings and their appurtenances and accessory structures, the International Residential Code,<sup>1</sup> 2006 edition, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code. (Ord. #04-46, Dec. 2004, modified)

**12-602. Modifications.** The residential code is adopted with the following exceptions:

(1) Chapter 1, § R105.2 work exempt from permit, building (1) is changed from 200 square feet to 100 square feet.

(2) Appendices A, B, C, E, and G, are adopted.

(3) Chapter 3, § R311.4.3 landings at doors add "provided the exterior door swings out over the stairway" at the end of the first sentence. (Ord. #04-46, Dec. 2004, modified)

**12-603. Available in clerk's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the dwelling code has been placed on file in the clerk's office and shall be kept there for the use and inspection of the public. (1991 Code, § 12-1003)

**12-604. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the dwelling code as herein adopted by reference and modified. (1991 Code, § 12-1004)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

## CHAPTER 7

### MODEL ENERGY CODE<sup>1</sup>

#### SECTION

12-701. Model energy code adopted.

12-702. Modifications.

12-703. Available in clerk's office.

12-704. Violations and penalty.

**12-701. Model energy code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Model Energy Code<sup>2</sup> 1995 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

**12-702. Modifications.** Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Smyrna. When the "building official" is named it shall, for the purposes of the energy code, mean the building official or his designee who is designated to administer and enforce the provisions of the energy code.

**12-703. Available in clerk's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the clerk's office and shall be kept there for the use and inspection of the public.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from The Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041.

**12-704. Violations and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty that does not exceed state authorized maximum limits. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 8

**INTERNATIONAL PROPERTY MAINTENANCE CODE**<sup>1</sup>**SECTION**

12-801. International property maintenance code adopted.

12-802. Modification of designated official; conflict.

12-803. Code available in clerk's office.

12-804. Violation and penalty.

**12-801. International property maintenance code adopted.** The International Property Maintenance Code, 2006 edition, and amendments thereto, is hereby adopted and incorporated by reference as part of this municipal code, and is hereinafter referred to as the property maintenance code.

**12-802. Modification of designated official; conflict.** (1) The building official or his designee of the Town of Smyrna, who has duties corresponding to the duties of officials named in the International Property Maintenance Code, as adopted by the Town of Smyrna, shall be responsible for the enforcement of the property maintenance code provisions.

(2) To the extent that any provisions contained within the International Property Maintenance Code, 2006 edition, or amendments thereto, conflict with provisions of the Smyrna Municipal Code not contained in the property maintenance code, the provisions of the Smyrna Municipal Code shall prevail over the provisions of the International Property Maintenance Code.

**12-803. Code available in clerk's office.** At least one (1) copy of the property maintenance code has been placed in the town clerk's office, and shall be kept there for the use and inspection of the public.

**12-804. Violation and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

## CHAPTER 9

### CODES ENFORCEMENT AND INSPECTION DIVISION

#### SECTION

- 12-901. Division established.
- 12-902. Building official; appointed.
- 12-903. Responsibilities.
- 12-904. Right of entry.

**12-901. Division established.** There is hereby established a division of the Town of Smyrna designated as codes enforcement and inspection division, which division shall be under the supervision, direction and administration of the planning manager. (Ord. 02-27, Aug. 2002, modified)

**12-902. Building official; appointed.** The planning manager shall appoint the building official of the town, who shall serve as the head of the codes enforcement and inspection division and who shall report directly to the planning manager. (Ord. #02-27, Aug. 2002, modified)

**12-903. Responsibilities.** The codes enforcement and inspection division shall be responsible for supervision, administration, and enforcement of all building codes, plumbing codes, gas codes, housing codes, health codes of the town.

The codes enforcement and inspection division shall be responsible for observing, inspecting, and ensuring the accurate and proper installation of any and all public improvements which the planning commission has ordered or permitted developers to install under existing codes of the Town of Smyrna. The codes enforcement and inspection division shall also be responsible for zoning enforcement, for the issuance and approval of all building and occupancy permits, and for reviewing all building plans under the supervision and administration of the planning manager. (Ord. #02-27, Aug. 2002, modified)

**12-904. Right of entry.** The codes enforcement inspection division is authorized to enter premises or structures at reasonable times to inspect and enforce applicable codes subject to constitutional restrictions or unreasonable searches and seizures. If entry is refused or not obtained, the codes official or his designee is authorized to seek an administrative inspection warrant as permitted in § 12-803.

## CHAPTER 10

### CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

#### SECTION

- 12-1001. Creation.
- 12-1002. Membership.
- 12-1003. Terms and removal of members.
- 12-1004. Election of officers.
- 12-1005. Purpose.
- 12-1006. Quorum, meetings, and by-laws.
- 12-1007. Appeals to board.
- 12-1008. Powers.
- 12-1009. Enforcement of decisions.
- 12-1000. Notice of appeal to board.
- 12-1011. Time for hearing.
- 12-1012. Rules of procedures.
- 12-1013. Timeliness of decisions.
- 12-1014. Previous appeals of same issue.
- 12-1015. Applicability.

**12-1001. Creation.** There is hereby established the Construction Board of Adjustments and Appeals for the Town of Smyrna. (1991 Code, § 2-201, modified)

**12-1002. Membership.** Due to safety concerns and the necessity of a level of technical expertise, the board shall consist of seven (7) members and two (2) alternates, all of whom shall be recommended by consensus of the town manager, building official and fire inspector and appointed by majority vote of the town council. The members must be residents of the Town of Smyrna. The members should be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors, a fire service industry representative or building industry representatives. Of the two (2) alternate members, one shall be a member at large from the building industry and one shall be a member at large from the public. A board member shall not act in a case in which he has a personal or financial interest. (1991 Code, § 2-202, modified)

**12-1003. Terms and removal of members.** The members shall be appointed for three year terms, except that on the initial appointment, two shall be appointed for one year, two for two years, and three for three years, so as to insure that no more than one-third of the board is appointed or replaced in any 12 month period. The two alternates shall serve one year terms. Members of the board may be removed by the town council for neglect of duty, conflict of

interest, malfeasance in office, violation of the ethics ordinance, or other just cause, or for unexcused absence from more than three consecutive meetings or more than five non-consecutive meetings during the member's term of appointment. It is the duty of the Town of Smyrna staff representative to advise the town manager when removal is recommended or necessary based on the provisions herein. The decision of the town council will be final with no appeal. Board members who are unable to attend regular meetings are expected to tender their resignation. A vacancy on said board shall be filled by the town council for the unexpired term of such vacancy. The members of said board shall serve without compensation. (1991 Code, § 2-203, modified)

**12-1004. Election of officers.** As soon as practical after their appointment, the members of the board shall meet and organize by electing a chairman and a vice-chairman. Thereafter officers of the board shall be elected by the members at the March meeting of the board. The building official shall act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member, and any failure of a member to vote. The building official shall handle such additional duties as the board may deem proper. All minutes of the meetings of the board shall be public records. (1991 Code, § 2-204, modified)

**12-1005. Purpose.** The board shall have the power to hear appeals of decisions and interpretations of the building official, housing official and fire official (hereinafter collectively referred to as "official") and consider variances of the technical codes. (1991 Code, § 2-205)

**12-1006. Quorum, meetings, and by-laws.** A simple majority of the board shall constitute a quorum. In varying any provision of the codes as adopted by town council, the affirmative votes of the majority present, but not less than three affirmative votes, shall be required. In modifying a decision of the appropriate official, not less than four affirmative votes, but not less than a majority of the board, shall be required. In the event that regular members are unable to attend a meeting, the alternate members shall vote. (1991 Code, § 2-206, modified)

**12-1007. Appeals to board.** The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the appropriate official to the board whenever any one of the following conditions are claimed to exist:

(1) The appropriate official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.

(2) The provisions of the codes, all as amended from time to time, do not apply to this specific case.

(3) That an equally good or more desirable form of installation can be employed in any specific case.

(4) The true intent and meaning of this code or any of the regulations thereunder have been misconstrued or incorrectly interpreted.

(5) To permit, in appropriate cases where the application of the requirement of the codes adopted by town council in the allowance of the stated time for the performance of any action required hereunder would appear to cause undue hardship on an owner, one or more extensions of time, not to exceed one hundred twenty (120) days each, from the date of such decision of the board. Applications for additional extensions of time shall be heard by the board. Such requests for additional extensions of time shall be filed with the housing office not less than thirty (30) days prior to the expiration of the current extension. (1991 Code, § 2-208, modified)

**12-1008. Powers.** The board, when so appealed to and after a hearing, may vary the application of any provisions of the codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of the codes, the technical codes or public interest, or when, in its opinion the interpretation of the appropriate official shall be modified or reversed, and also finds all of the following:

(1) That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.

(2) That the special conditions and circumstances do not result from the action or inaction of the applicant.

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the codes to other buildings, structures or service system.

(4) That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.

(5) That the grant of the variance will be in harmony with the general intent and purpose of the codes and will not be detrimental to the public health, safety and general welfare. (1991 Code, § 2-208)

**12-1009. Enforcement of decisions.** In granting the variance, the board shall prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with the codes. Violation of the conditions of a variance shall be deemed a violation of the codes. (1991 Code, § 2-209, modified)

**12-1010. Notice of appeal to board.** Notice to appeal shall be in writing to the building official and filed within thirty (30) calendar days after the decision is rendered by the building official. Appeals shall be in a form acceptable to the appropriate official and shall be accompanied by the necessary fees as set in the fee schedule adopted in accordance with the budget ordinance. (1991 Code, § 2-210, modified)

**12-1011. Time for hearing.** In the case of a building, structure or service system which, in the opinion of the building official or fire official, as appropriate, is unsafe, unsanitary or dangerous, the building official or fire official, as applicable, may, in his order, limit the time for such appeals to a shorter period. (1991 Code, § 2-211)

**12-1012. Rules of procedure.** The board shall establish its own rules of procedure for accomplishment of its duties and functions, provided that such rules shall not be in conflict with the provisions of the codes and the laws of the State of Tennessee. The board shall meet at regular intervals on call of the chairman, but in any event, the board shall meet within thirty (30) calendar days after notice of appeal has been received. No less than ten (10) days prior to hearing of the board, notice of the place, time and date of such meetings shall be given all the members of the board and all interested parties in each case to be heard by the board. (1991 Code, § 2-212, modified)

**12-1013. Timeliness of decisions.** The board shall, in every case, reach a decision no later than sixty (60) days from the date of the hearing. Each decision of the board shall also include the reasons for the decision and shall specify in what manner such variance or modification is made and the conditions upon which such decision is made. If a decision of the board reverses or modifies a refusal, order, or disallowance of the appropriate official, or varies the application of any provision of the codes, the appropriate official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official, housing official, or fire official, as appropriate, and shall be open to public inspection. A certified copy of the decision shall be sent by certified mail, return receipt requested, to the appellant and a copy shall be kept publicly posted in the office of the appropriate official for two weeks after filing. Every decision of the board shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. (1991 Code, § 2-213, modified)

**12-1014. Previous appeals of same issue.** An appeal involving the any codes adopted by the town council should not be considered where an appeal case has been previously decided involving the same premises. (1991 Code, § 2-214, modified)

**12-1015. Applicability.** The provisions of this chapter shall replace and supersede provisions in the adopted codes related to the boards of appeals.