
CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council

DATE: September 27, 2011

FROM: John McDonough, City Manager

AGENDA ITEM: TA11-004 - An Ordinance to Amend Section 105-119, Fees and Certificates, of the Code of Sandy Springs

MEETING DATE: For Submission onto the October 4, 2011, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Mark-up of Ordinance

APPROVAL BY CITY MANAGER:  APPROVED

_____ NOT APPROVED

PLACED ON AGENDA FOR: 10/4/2011


CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: 

REMARKS:



To: John McDonough, City Manager

From: Nancy J. Leathers, AICP, Director, Department of Community Development 

Date: September 20, 2011 for Submission onto the October 4, 2011 City Council Regular Meeting Agenda

Subject: TA11-004, An Ordinance to Amend Section 105-119, Fees and Certificates, of the Code of Sandy Springs

Please find enclosed a proposed text amendment to Section 105-119, Fees and Certificates regarding the City of Sandy Springs' Apartment Inspection Ordinance.

Background:

Under the Apartment Inspection Ordinance, apartment owners are required to monitor fire hydrants on their properties and maintain inspection records regarding the same. Due to the critical nature of insuring that hydrants are operable, however, Fire Department staff has suggested several additions to the Apartment Inspection Ordinance.

In addition to inspection records, the Fire Department has suggested that maintaining data regarding any repairs conducted on hydrants would be helpful. Also insuring that records to indicate inoperable hydrants and to provide maps and/or numbering of hydrants on the property for fire department use during an emergency is similarly important. Finally, the Fire Department has suggested that requiring a flow test every three (3) years as opposed to the five (5) years which is now required would be appropriate and further consistent with other jurisdictions in the Metro Atlanta area.

Discussion:

Staff believes that the above suggestions appear to be reasonable and calculated to lead to a substantial enhancement regarding the safety of life and property regarding residents living in multifamily residences. While there may be additional administrative burdens placed on owners, those burdens appear to be reasonable in light of the benefit which would be realized.

Staff Recommendation:

The Staff recommends APPROVAL of the amendment to the above referenced section of the Zoning Ordinance.

cc: Wendell K. Willard, City Attorney
cc: Jack McElfish, Fire Chief
cc: Jeff Scarbrough, Senior Deputy Fire Marshal

Sec. 105-118. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certified building inspector means any person inspecting for compliance with the various adopted codes who is a licensed design professional (architect or engineer) or holds one of the following certifications from SBCCI (ICC): property maintenance and housing inspector, housing rehabilitation inspector, building inspector, building plan examiner or commercial combination inspector.

Certified private hydrant contractor means any person inspecting for compliance with the various adopted codes who is an approved (by the City of Sandy Springs Fire Marshal's office) private hydrant contractor.

Code of compliance certificate means a certificate, substantially similar to exhibit A attached to the ordinance from which this division is derived and incorporated herein, executed by a certified building inspector and stating compliance with those minimum standards described in the inspection report attached thereto.

Inspection report means the report attached to the code compliance certificate describing minimum requirements for inspection of each unit.

Lease means any written or oral agreement which sets forth any and all conditions concerning the use and occupancy of multifamily rental dwellings or multifamily rental units.

Multifamily rental dwelling means any multifamily structure, multifamily building, or other facility promised and/or leased to a residential tenant or tenants for use as a home, residence, or sleeping unit. This definition includes, but is not limited to, multiple-family dwellings, multiple-family apartment units, boardinghouses, rooming houses, group homes, and flats.

Multifamily rental unit means any one area, room, structure, flat, apartment, or facility of a multifamily rental dwelling that is being leased or rented to only one tenant, group of tenants, or family under one lease, or under terms of joint and severable liability.

Occupancy means all tenants, lessees and persons residing within a multifamily rental dwelling or multifamily rental unit.

Owner means any person, agent, firm, or corporation having a legal or equitable interest in a premises.

Owner-occupied means any part of a structure used as living quarters by the owner of said structure where other parts of the structure are used as multifamily rental units. Example: Two-family dwelling, owner occupies one flat; rooming house, owner occupies one unit.

Premises means any lot or piece of land inclusive of the multifamily rental dwelling or multifamily rental unit.

(Ord. No. 2008-10-53, 10-21-2008)

Sec. 105-119. Fee and certificate required.

(a) *Occupation tax.* All owners of multifamily rental dwellings or multifamily rental units within the city that receive income for use of four or more such dwellings or units and meet the requirements of O.C.G.A. § 48-13-5 for having a location or office within the city (i) shall be subject to an occupation tax as provided in this division and (ii) shall provide to the city, prior to September 1, 2006, a code compliance certificate covering 100 percent of the multifamily rental units within the 12-month period immediately preceding the date of the certification. Said code compliance certificate shall be certified by the owner that all units inspected are in compliance with those standards contained in the code compliance certificate and inspection report. For the

initial year of construction, this section shall not apply to new construction or rehabilitation of a multifamily rental dwelling provided proper permits are obtained from the city.

(b) *Inspection.* Upon initial inspection of such dwellings or units, should a certified building inspector determine that further work is necessary to comply with the minimum standards set forth herein, an acceptable plan shall be submitted to the chief building official outlining the time and scope of work necessary to bring the units into compliance. If such plan is accepted by the chief building official as reasonable and justified, an extension may be granted for up to one year for completion of repairs and compliance with this division. No extension shall be granted if life safety issues are involved and any such units shall not be leased until brought into compliance.

(c) *Compliance certificate.* After submission of the initial code compliance certificate, each owner shall submit a code compliance certificate annually, commencing on January 1, 2007, with their business license renewal. Such subsequent code compliance certificate shall cover at least 20 percent of the units, provided all units shall be inspected, at a minimum, every five years. All units inspected shall be listed individually on the code compliance certificate submitted to the city by the certified building inspector. Furthermore, exterior inspections shall cover at least 20 percent of the buildings, provided all buildings shall be inspected, at a minimum, every five years. All units inspected shall be listed individually and submitted to the city by the certified building inspector.

(d) *Written record of inspection.* Furthermore, each owner and certified building inspector shall keep a written record of all inspections for each unit including the date of the inspection, items inspected and all violations, if any, observed. Such records shall be presented to the city within ten business days after such request is made in writing to the inspector. Failure to provide such records shall nullify the code compliance certificate for those units.

(e) *Fire hydrant inspection and compliance certificate.* Upon initial inspection of hydrants/mains, should a certified private hydrant contractor determine that further work is necessary to comply with the minimum standards adopted by the city and state, an acceptable plan of correction shall be submitted to the fire marshal outlining the time and scope of work necessary to bring hydrants/mains into compliance. Any such units without a properly functioning fire hydrant within 1,000 feet (or closet hydrant at the time of adoption of this ordinance) of the unit shall not be leased until hydrant(s) and or main(s) are brought into compliance. All private hydrants shall be field flow-tested every three years and be capable of a minimum flow rate as determined by the fire marshal. An approved impairment device shall be placed on any fire hydrant which has been turned off for repairs or is out of service for any reason and immediate notice will be given to the fire marshal. The fire marshal shall also be notified when such hydrant is returned to active service. All existing right-open hydrants (clockwise) shall be marked with a min. 4" long contrasting arrow. The GPS location of all hydrants shall be provided. All hydrants shall be numbered with designation established by the fire marshal. All new / replacement hydrants shall comply with Sec. 103-93, Water system and fire hydrants. All private hydrants shall be field flow-tested every three years and be capable of a minimum flow rate as determined by the fire marshal. An approved impairment device shall be placed on any fire hydrant which has been turned off for repairs or is out of service for any reason and immediate notice will be given to the fire marshal. The fire marshal shall also be notified when such hydrant is returned to active service. All existing right-open hydrants (clockwise) shall be marked with a min. 4" long contrasting arrow. The GPS location of all hydrants shall be provided. All hydrants shall be numbered with designation established by the fire marshal. All new/ replacement hydrants shall comply with Sec. 103-93, Water system and fire hydrants.

(1) After submission of the initial hydrant/main code compliance certificate, each owner shall submit a hydrant/main code compliance certificate annually, commencing on January 1, 2010, with their business license renewal. Such subsequent hydrant/main code compliance shall

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cover 100 percent of all private hydrants and water mains connected to fire hydrants for their property. All hydrants and mains shall be listed individually on a city furnished document attached to the hydrant/main code compliance certificate submitted to the city by the certified private hydrant contractor.

(2) Furthermore, each owner and certified private hydrant contractor shall keep a written record of:

(A) All inspections for each hydrant and main including the date of the inspection, items inspected and all violations, if any observed.

(B) All repairs including but not limited to itemized receipts that indicate replacement parts.

(C) Such records shall be presented to the city within ten business days after such request is made in writing to the inspector or property owner. Failure to provide such records shall nullify the hydrant/main code compliance certificate for the affected units.

(Ord. No. 2008-10-53, 10-21-2008)

Sec. 105-120. Failure to provide code compliance certificate.

(a) Failure to provide the code compliance certificate as provided herein shall be a violation of this division and is subject to those penalties contained herein and in section 1-10.

(b) Further, said failure, upon a judicial determination, shall be a condition constituting probable cause, and may subject said multifamily rental dwelling or multifamily rental units to inspection by the city building official and/or the city fire marshal at a fee as determined by the city council that covers all costs of such inspection by the city. Said inspection by the city, if required, shall be at a sole cost of the owner and failure to pay said cost shall result in a lien being placed on the premises as provided for collection of taxes.

(c) Failure to pay the occupational tax as provided herein shall be a violation of this division and is subject to those penalties set forth in this division. Nothing contained in this section shall prevent the city from enforcement of the state minimum standard codes as provided in this chapter.

(Ord. No. 2008-10-53, 10-21-2008)

Sec. 105-121. Penalty for false certification and false inspection.

(a) An owner who knowingly participates in furnishing a code compliance certificate to the city which contains a false certification that all multifamily rental dwellings or multifamily rental units inspected are in compliance with those standards contained in the code compliance certificate shall be guilty of a violation of this Code for each multifamily rental dwelling or multifamily rental unit for which the certification is shown to be false and can be fined up to \$1,000.00, or imprisoned for up to one year, or any combination of these, by the court for each violation.

(b) A certified building inspector or a private hydrant contractor who furnishes an inspection report which knowingly contains fraudulent information that a multifamily rental dwelling or multifamily rental unit meets the minimum housing standards or fire hydrant standards of the city as shown by the inspection report contained in exhibit A of the ordinance from which this division is derived shall be guilty of a violation of this Code and can be fined up to \$1,000.00, or imprisoned for up to one year, or any combination of these, by the court for each violation. In addition, a private hydrant contractor or a building inspector's right to submit inspection reports to the city may be suspended for a stated period of time, up to five years, by resolution of the city council.

(Ord. No. 2008-10-53, 10-21-2008)

Comment [d1]: What is this? DIA