

Chapter 46

FIRE PREVENTION AND PROTECTION*

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***Editor's note**—Ord. No. 05-20, §§ 2, 3, adopted March 24, 2005, repealed the former Ch. 46, §§ 46-1—46-10, 46-56—46-62, 46-76—46-78, and § 3 of said ordinance enacted a new Ch. 46 as set out herein. The former Ch. 46 pertained to Fire Prevention Code—local amendments and derived from Ord. No. 02-27, § 3, 6-13-02.

Cross references—Buildings and building regulations, ch. 18; civil emergencies, ch. 30; emergency services, ch. 34; fire impact fee, § 42-181 et seq.; fireworks, § 50-61 et seq.; pension plan for firefighters, § 54-186 et seq.

State law references—Fire prevention and control, F.S. ch. 633; state uniform fire safety standards for certain buildings, F.S. § 633.022; minimum fire safety standards, F.S. § 633.025; resolution of conflict between minimum building code and fire safety code, F.S. § 533.73(8).

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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 F.S. § 633.0215, 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 F.S. ch. 633, 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.

(Ord. No. 05-20, § 3, 3-24-05)

Sec. 46-2. Authority.

The regulations in this chapter are enacted under the general home rule powers of the city and pursuant to F.S. ch. 633 for the purpose of establishing fire safety 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 fire safety 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 fire safety code and provides a higher level of protection to the public than the level specified in the Florida Fire Prevention Code.

(Ord. No. 05-20, § 3, 3-24-05)

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.

(Ord. No. 05-20, § 3, 3-24-05)

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.

(Ord. No. 05-20, § 3, 3-24-05)

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.

(Ord. No. 05-20, § 3, 3-24-05)

Sec. 46-6. Duties of city attorney.

Under this chapter, the city attorney shall, upon authorization of the city commission:

- (1) Prosecute all persons failing to comply with this chapter.
- (2) 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 subsection 46-6(a) or (c).
- (3) Take such other legal action as is necessary to carry out the terms of this chapter.

(Ord. No. 05-20, § 3, 3-24-05)

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.

(Ord. No. 05-20, § 3, 3-24-05)

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.

(Ord. No. 05-20, § 3, 3-24-05)

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.

(Ord. No. 05-20, § 3, 3-24-05)

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.

(Ord. No. 05-20, § 3, 3-24-05)

Secs. 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 provi-

sions 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.

(Ord. No. 05-20, § 3, 3-24-05)

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.

(Ord. No. 05-20, § 3, 3-24-05)

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 a nonrefundable plan review fee for review by the fire department to be collected by the building department. The city commission shall set or amend such fees by resolution.

(Ord. No. 05-20, § 3, 3-24-05; Ord. No. 10-23, § II, 4-8-10)

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.

(Ord. No. 05-20, § 3, 3-24-05)

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 appropriate fee(s). A schedule for inspection and reinspection fees shall be adopted and amended from time to time by resolution of the city commission.

(Ord. No. 05-20, § 3, 3-24-05; Ord. No. 10-23, § III, 4-8-10)

Sec. 46-61. Reserved.

Editor's note—Ord. No. 24-16, § 1, adopted May 9, 2024 repealed § 46-61, which pertained to burn permits and derived from Ord. No. 05-20, § 3, adopted Mar. 24, 2005; and Ord. No. 10-23, § IV, adopted April 8, 2010.

Sec. 46-62. Other inspections; fees.

The fire department shall also perform the following inspections, which shall have the permit fees indicated:

- (1) 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 \$50.00.

- (2) Fire hydrant flow tests. \$50.00 per hydrant if conducted by fire department.

The permit fees set forth in this section shall be collected by the fire department.

(Ord. No. 05-20, § 3, 3-24-05)

Secs. 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.

(Ord. No. 05-20, § 3, 3-24-05)

Sec. 46-77. Automatic fire protection system required.

(a) Subject to subparagraphs (b) through (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 chapter, when the gross square footage exceeds 6,000 square feet.
- (2) Existing commercial buildings when the gross square footage exceeds 6,000 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 6,000 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 6,000 square feet.

- (5) Buildings categorized in the ordinary hazard occupancies (group 3) or extra hazard occupancies (groups 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 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 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.

(Ord. No. 05-20, § 3, 3-24-05; Ord. No. 24-16, § 1, 5-9-24)

Secs. 46-78—46-90. Reserved.

ARTICLE IV. FIRE RESCUE ASSESSMENT*

DIVISION 1. INTRODUCTION

Sec. 46-91. Definitions.

As used in this article, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

Annual rate resolution means the resolution described in section 46-118 hereof, establishing the rate at which a fire rescue assessment for a specific fiscal year will be computed. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which a fire rescue assessment is imposed or reimposed.

Assessed property means all parcels of land within the city included on the assessment roll that receive a special benefit from the delivery of the fire rescue services, programs or facilities identified in the initial assessment resolution or a subsequent preliminary rate resolution.

Assessment roll means the special assessment roll relating to a fire rescue assessment approved by a final assessment resolution pursuant to section 46-116 hereof or an annual rate resolution pursuant to section 46-118 hereof.

Building means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes. This term shall include the use of land in which lot or spaces are offered for use, rent or lease for the placement of mobile homes, travel trailers, or the like for residential purposes.

Building permit means the written certification issued by the city permitting the construction or siting of a building. For the purposes of this article, a set up or tie down permit or its equivalent issued for a mobile home shall be considered a building permit.

Certificate of occupancy means the written certification issued by the city that a building is

ready for occupancy for its intended use. For the purposes of this article, a set up or tie down permit or its equivalent issued for a mobile home shall be considered a certificate of occupancy.

City means the City of Winter Garden, Florida.

City clerk means the clerk of the city commission.

City commission means the City Commission of the City of Winter Garden, Florida.

City manager means the chief administrative officer of the city, designated by the city commission to be responsible for coordinating fire rescue assessments or such person's designee.

County means Orange County, Florida.

Final assessment resolution means the resolution described in section 46-116 hereof which shall confirm, modify, or repeal the initial assessment resolution and which shall be the final proceeding for the initial imposition of fire rescue assessments.

Fire rescue assessment means a special assessment lawfully imposed by the city commission against assessed property to fund all or any portion of the cost of the provision of fire rescue services, facilities, or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use, or characteristics of the assessed property.

Fire rescue assessed cost means the amount determined by the city commission to be assessed in any fiscal year to fund all or any portion of the cost of the provision of fire rescue services, facilities, or programs which provide a special benefit to assessed property, and shall include, but not be limited to, the following components: (A) the cost of physical construction, reconstruction or completion of any required facility or improvement; (B) the costs incurred in any required acquisition or purchase; (C) the cost of all labor, materials, machinery, and equipment; (D) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (E) the cost of computer services, data processing, and communications; (F) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever; (G) the cost of any

*Editor's note—Ord. No. 08-43, §§1.01—4.04, did not specifically amend the Code; hence, inclusion as Ch. 46, §§ 46-91—46-143, was at the discretion of the editor.

indemnity or surety bonds and premiums for insurance; (H) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (I) the cost of uniforms, training, travel, and per diem; (J) the cost of construction plans and specifications, surveys and estimates of costs; (K) the cost of engineering, financial, legal, and other professional services; (L) the costs of compliance with any contracts or agreements entered into by the City to provide fire rescue services; (M) all costs associated with the structure, implementation, collection, and enforcement of the fire rescue assessments, including any service charges of the tax collector, or property appraiser and amounts necessary to off-set discounts received for early payment of fire rescue assessments pursuant to the Uniform Assessment Collection Act or for early payment of fire rescue assessments collected pursuant to section 36-142 herein; (N) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire rescue services, facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the city commission by subsequent resolution; (O) a reasonable amount for contingency and anticipated delinquencies and uncollectible fire rescue assessments; and (P) reimbursement to the city or any other person for any moneys advanced for any costs incurred by the city or such person in connection with any of the foregoing components of fire rescue assessed cost. In the event the city also imposes an impact fee upon new growth or development for fire rescue related capital improvements, the fire rescue assessed cost shall not include costs attributable to capital improvements necessitated by new growth or development that will be paid by such impact fees. The fire rescue assessed cost shall also not include costs for the provision of emergency medical services by the city.

Fiscal year means that period commencing October 1st of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the city.

Government property means property owned by the United States of America or any agency

thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

Initial assessment resolution means the resolution described in section 46-112 hereof which shall be the initial proceeding for the identification of the fire rescue assessed cost for which an assessment is to be made and for the imposition of a fire rescue assessment.

Maximum assessment rate means the highest rate of a fire rescue assessment established by the city commission in an initial assessment resolution or preliminary rate resolution and confirmed by the city commission in the final assessment resolution or annual rate resolution.

Ordinance means this fire rescue assessment ordinance.

Owner shall mean the person reflected as the owner of assessed property on the tax roll.