



CITY COUNCIL ACTION REPORT

DATE: September 30, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/ Economic Development Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Amendments to Chapter 79 of the Troy City Code
General Building Regulations, Appeal Procedures

Background:

- As part of the discussions of the new Property Maintenance Code changes were suggested to the process of the Building Code Board of Appeals.
- The current make-up of the Board of Appeals includes the Director of Building and Zoning, the Fire Chief, the Director of Public Works, a representative from the Oakland County Health Department, and a member of the general public that is a Registered Engineer.
- The membership by certain staff members presents potential conflicts of interest since they could be hearing appeals of their decisions or decisions of other employees that are under their direct supervision and control.
- We are proposing that the membership be changed eliminating the Director of Building and Zoning, The Fire Chief and the Director of Public Works and replacing them with the City Manager and two additional members of the public.
- We are also correcting the names of the reference codes that the Board has jurisdiction on.
- We have added specific language regarding distribution of minutes of the Building Code Board of Appeals.

Financial Considerations:

- There are no financial considerations.

Legal Considerations:

- City Council has the authority to amend the membership of the Building Code Board of Appeals under the Public Act 230 of 1972, the City Charter and the Home Rule Cities Act.

Policy Considerations:

- Troy enhances the health and safety of the community (Outcome I).

Options:

- City Council can adopt the provisions for the new membership of the Building Code Board of Appeals.
- Council can retain the existing membership of the Building Code Board of Appeals.
- Council can adopt revised membership of the Building Code Board of Appeals.

Approved as to Form and Legality:

Lori Grigg Bluhm, City Attorney

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 79 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 79, Sections 116, of the Code of the City of Troy.

Section 2. Amendment

Section 116.1 shall be amended as follows:

Application for Appeal. The owner of a building or structure or any other person may appeal from a decision of the building official refusing to grant a modification of the provisions of the building regulation enacted by the City Council, including but not limited to, the ~~Basic National~~Michigan Building Code, the Michigan Rehabilitation Code for Existing ~~Structure Code~~Buildings, the Troy Fire Prevention Code, Michigan Electrical Code, Michigan Plumbing Code, Michigan Mechanical Heating Code, Troy Property Maintenance Code, Troy Fence Ordinance, Troy Sign Ordinance, but not including the Troy Zoning Ordinance, covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure to the Board of Appeals. Application for appeal may be made when it is claimed that: the true intent of the building regulations, as listed above, adopted to regulate the construction or occupancies of buildings, or the rules legally adopted there under have been incorrectly interpreted, the provisions of the building regulations do not fully apply, or an equally good or better form of construction can be used.

Section 116.2 shall be amended as follows:

Membership of the Board. The Board of Appeals shall consist of the following: 1. The ~~Building Official~~City Manager. 2. ~~The Director of Public Works~~. 3. ~~The Fire Chief~~. 4. A Representative of the Oakland County Health Department. ~~5.3. Three residents of the City of Troy who shall have a background, training or experience in construction or similar trades, at least one of which shall be a~~ Professional structural or civil engineer of architectural engineering experience, ~~The residents who~~ shall be appointed by the City Council for a period of five (5) years.

Section 116.4 shall be added and read as follows:

Records of the Board. Minutes of each meeting shall be kept in accordance with the Open Meetings Act, Public Act 267 of 1975 (MCL 15.261 et. seq.), and provided to City Council upon approval.

Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 79 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 79, Sections 116, of the Code of the City of Troy.

Section 2. Amendment

Section 116.1 shall be amended to read as follows:

Application for Appeal. The owner of a building or structure or any other person may appeal from a decision of the building official refusing to grant a modification of the provisions of the building regulation enacted by the City Council, including but not limited to, the Michigan Building Code, the Michigan Rehabilitation Code for Existing Buildings, the Troy Fire Prevention Code, Michigan Electrical Code, Michigan Plumbing Code, Michigan Mechanical Code, Troy Property Maintenance Code, Troy Fence Ordinance, Troy Sign Ordinance, but not including the Troy Zoning Ordinance, covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure to the Board of Appeals. Application for appeal may be made when it is claimed that: the true intent of the building regulations, as listed above, adopted to regulate the construction or occupancies of buildings, or the rules legally adopted there under have been incorrectly interpreted, the provisions of the building regulations do not fully apply, or an equally good or better form of construction can be used.

Section 116.2 shall be amended as follows:

Membership of the Board. The Board of Appeals shall consist of the following: 1. The City Manager. 2. A Representative of the Oakland County Health Department. 3. Three residents of the City of Troy who shall have a background, training or experience in construction or similar trades, at least one of which shall be a Professional structural or civil engineer of architectural engineering experience. The residents shall be appointed by the City Council for a period of five (5) years.

Section 116.4 shall be added and read as follows:

Records of the Board. Minutes of each meeting shall be kept in accordance with the Open Meetings Act, Public Act 267 of 1975 (MCL 15.261 et. seq.), and provided to City Council upon approval.

Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective January 1, 2010.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk