

NO. O-13-18

# AN ORDINANCE

**AMENDING ORDINANCE NUMBER O-04-06 AND O-06-14 TO CLARIFY THE DEMOLITION PERMIT PROCESS, PROVIDE ALTERNATE METHODS OF SURETY, EXEMPT CERTAIN SMALL PROJECTS FROM SUCH PROCESS AND PROVIDE FOR A DEMOLITION AGREEMENT ON ALL NON-EXEMPT PROJECTS.**

**WHEREAS**, the Spartanburg County Code of Ordinances currently requires surety to secure the work to be performed under a demolition permit on all demolition projects and provides two options for surety;

**WHEREAS**, Spartanburg County Council wishes to provide a third option for surety, exempt certain small projects and to clarify the demolition permit process.

**NOW, THEREFORE, BE IT ORDAINED BY SPARTANBURG COUNTY COUNCIL:**

**SECTION 1.** Spartanburg County Ordinance O-06-14 is hereby amended to read as follows and shall be codified as the indicated sections of Chapter 10 of the Spartanburg County Code of Ordinances:

**Sec. 10-82. Purpose of Demolition Agreement and Surety.**

To protect the health, peace and general welfare of the public and to provide a means to ensure that once a demolition project is commenced that it is completed, the County has adopted provisions to provide for a demolition agreement to establish a timeframe for the project and surety to provide a means to complete a project where an applicant defaults.

**Sec. 10-83. Demolition Agreement and Surety required.**

- (a) In addition to a demolition permit required by the International Building Code, promulgated and published by the International Code Council, Inc., as adopted by Sec. 10-81, the applicant shall execute a Demolition Agreement providing for the timely

demolition of the structure and provide surety acceptable to the county. The agreement shall be between the applicant and Spartanburg County on a form approved as to form by the County Attorney.

- (b) The maximum period of performance by the applicant under the agreement shall be six (6) months, although extensions may be made in accordance with this Division.
- (c) If the applicant posting the surety is not the landowner, one of the following options must be satisfied:
  - a. the applicant posting the surety and the landowner must both sign the Demolition Agreement;
  - b. a copy of the contract between the applicant and the landowner must be provided; or
  - c. the landowner must designate the applicant as his/her attorney-in-fact for the purposes of obtaining the demolition permit
- (d) The demolition permit shall not be issued until the proposed demolition covered by the Demolition Agreement and adequate surety are in place and approved by the County.

#### **Sec. 10-84. Forms of surety.**

The following types of surety guarantees may be used to satisfy the requirements of Section 10-82:

- (a) *Cash* means a cashier's check, certified check or cash to be deposited with the Treasurer of Spartanburg County. Interest accruing on such funds shall be for the benefit of the county. Upon the request of the applicant, the County will hold the check for two (2) weeks in the Building Codes Office before the check is deposited, where the completion date in the Demolition Agreement is two (2) weeks or less.
- (b) *Irrevocable Letter of Credit* means an instrument provided by a lending institution guaranteeing payment to the county in the event the applicant defaults in performance under its Demolition Agreement and which meets the following minimum conditions:
  - (1) That the letter contain the following items: an identifying number, the name of the applicant with address, the expiration date, the amount and the beneficiary, which shall be Spartanburg County, 366 N. Church Street, Spartanburg, South Carolina 29303.
  - (2) That the letter contain the following language: "A notarized statement executed by an authorized representative of Spartanburg County stating that the applicant has failed to comply with the provisions of the agreement dated [date of the agreement] between the applicant and Spartanburg County is entitled to the sum in the amount not to exceed [the amount of the letter-of-credit] drawn hereunder."
  - (3) That the lending institution shall guarantee payment of funds in an amount equal to the estimated cost of completing all required improvements and as otherwise

required;

- (4) That in case of failure on the part of the applicant to complete the specified improvements within the required time period, the lending institution shall pay to the county immediately and without further action such funds as are necessary to finance the completion of those improvements, up to the limit of the credit stated in the letter;
- (5) That the letter of credit may not be withdrawn or reduced in amount until released by the Building Official
- (6) That the lending institution must be insured by the FDIC or FSLIC and be rated at least 20(c) in the latest publication of the Sheshunoff Quarterly Ratings for Banks and Savings and Loan Associations; and
- (7) That the Demolition Agreement involved must contain a performance date which is a minimum of one (1) month prior to expiration of the letter of credit. The letter of credit must be irrevocable during any such period.
- (8) These requirements shall apply to new and amended letters of credit.

(c) *Corporate Surety Bond* means a surety bond signed by an insurance company licensed to transact fidelity and surety insurance business in South Carolina guaranteeing the demolition of the structure. The surety shall meet the following minimum conditions:

- (1) That the payment and performance bond shall contain the following items: an identifying number, the name of the applicant with address and an expiration date.
- (2) That a dual obligee rider shall be provided if the applicant is different from the owner of the property, one obligee on the bond's dual obligee rider shall be the owner of the property and the other shall be Spartanburg County.
- (3) That if the proposed demolition is not completed by the completion date stated on the demolition permit, the County shall have the right to be paid from the bond all of the costs that it incurs completing the permitted demolition.
- (4) The surety, when notified of the applicant's default shall pay the face amount of the bond, or any lesser amount determined by the county.
- (5) The surety shall agree to provide said funds to the county prior to performance of the work, based upon the county's estimate of the funds required.

#### **Sec. 10-85. Estimate.**

To secure a surety, the applicant shall provide the County with an itemized estimate of the costs of demolition to be performed pursuant to the permit. When the estimate is approved by the County, the applicant shall then present the County with one of the forms of surety listed in Section 10-84 equivalent to one hundred and five (105) percent of the total costs of the proposed demolition and the executed agreement required by Section 10-83.

#### **Sec. 10-86. Default; Extension and Rebonding of Agreements.**

- (a) When an applicant enters into a Demolition Agreement with the County, it is understood that all demolition work shall be completed in the specified period of time unless the applicant obtains from the county a written extension of time and provides an extension

of surety. If all demolition is not satisfactorily completed within this time period, and no extension granted, the applicant shall be deemed in default. Thereafter, the County may avail itself to those remedies available at law and in equity.

- (b) No less than thirty (30) days prior to performance date, the applicant may file a written request for an extension of the performance date in its Demolition Agreement for a maximum period of an additional six (6) months. The applicant shall include in this request the reasons and conditions which have precluded it from completing the demolition and provide a timetable for completion of the remaining work. The applicant will also be required to maintain the required surety.
- (c) The applicant shall provide an updated estimate to complete the remaining work.
- (d) The county's Building Official, in his/her sole discretion, may, after considering all circumstances involved, either grant or deny the requested extension.
- (e) If the county grants the requested extension, the applicant shall execute an amended Demolition Agreement and provide a written surety extension, each of which shall be in a form acceptable to the county.

**Sec. 10-87. Release.**

Within thirty (30) days of the completion of the demolition, as determined by a final inspection, such corporate surety bond, cash, letter of credit, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated, as the case may be.

**Sec. 10-88. Standard forms.**

All surety instruments and Demolition Agreements shall be substantially the same as the standard forms promulgated by the County. No deviations shall be accepted unless approved by the county attorney for conformity with this policy and all applicable requirements. Only those surety companies that are acceptable to the county may secure surety instruments.

**Sec. 10-89. Exceptions to Demolition Agreement and Surety Requirements.**

The following projects shall be exempt from the requirements of Sections 10-82 through 10-87:

- (1) The total cost is less than \$10,000.00;
- (2) The total square footage to be demolished is less than 5,000 square feet; and
- (3) The demolition will be completed in a single phase.

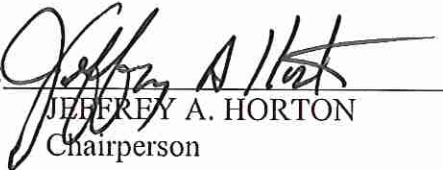
**Sec. 10-90. Asbestos Project License from DHEC.**

As part of the application for a demolition permit, the applicant shall provide to the County a copy of the Asbestos Project License – Notice of Demolition letter issued by Department of Health and Environmental Control. This letter shall be provided to the County prior to the County issuing a demolition permit.


**SECTION 2. Effective date.** This Ordinance shall take effect upon third reading approval.

**ADOPTED** this 20<sup>th</sup> day of May, 2013.

**SPARTANBURG COUNTY COUNCIL**

BY:   
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JEFFREY A. HORTON  
Chairperson

**ATTEST:**

  
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Katherine L. Hubbard  
Spartanburg County Administrator

First Reading: March 18, 2013  
Second Reading: April 15, 2013  
Public Hearing: April 15, 2013  
Third Reading: May 20, 2013