

**SYNOPSIS OF ORDINANCE
AMENDING THE CODE OF SOUTH BETHANY,
TO AMEND CHAPTER 42, BUILDING CONSTRUCTION,
ENFORCING OFFICER, PERIODS OF PROHIBITED CONSTRUCTION &
PENALTIES FOR OFFENSES REGARDING ESTABLISHING STOP
WORK ORDER PROTOCOLS, AMENDING HOURS OF
CONSTRUCTION, AND TYPES OF VIOLATION NOTICE
CORRESPONDENCE
ORDINANCE 213-23 (SECOND READING)
(Sponsored by Councilwoman Dondero)**

This Ordinance amends the Code of the Town of South Bethany, Chapter 42, Building Construction, Enforcing Officer, to establish stop work order protocols; Periods of Prohibited Construction, to amend the hours of construction work and the definition of "owner"; and Penalties for Offenses, to amend the types of correspondence regarding notice of violations.



ORDINANCE NO. 213-23

AN ORDINANCE TO AMEND the Code of the Town of South Bethany, Chapter 42, Building Construction, Enforcing Officer, to establish stop work order protocols; Periods of Prohibited Construction, to amend the hours of construction work and the definition of “owner”; and Penalties for Offenses, to amend the types of correspondence regarding notice of violations.

BE IT HEREBY ENACTED by the Council of the Town of South Bethany, Sussex County, Delaware, a majority thereof concurring in Council duly met, that the following ordinances be and hereby are amended as follows: (additions are **bold and highlighted in red text** and deletions are ~~bold and marked through~~)

Amend Chapter 42, Building Construction, Sections 42-4, 42-14.3, and 42-16 as follows:

§ 42-4 Enforcing officer.

[Amended 2-8-2002 by Ord. No. 107-01]

The provisions of this chapter and Chapter 145, Zoning, shall be administered by the South Bethany Code Enforcement Constable or Town Manager and enforced by him/her and other Town officials, including the police. The Code Enforcement Constable or Town Manager may be provided with the assistance of such other persons as the Town Council may direct. His/her duties shall include inspecting the premises.

§42-4.1 STOP WORK ORDER

- A. Authority.** Whenever the *Code Enforcement Constable or Town Manager or their designee* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *Code Enforcement Constable or Town Manager or their designee* is authorized to issue a stop work order.
- B. Issuance.** A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.
- C. Emergencies.** Where an emergency exists, the *Code Enforcement Constable or Town Manager or their designee* shall not be required to give a written notice prior to stopping the work.
- D. Failure to comply.** Any person who shall continue any work regarding the cited work/condition after having been served with a stop work order, except such work as may be necessary to remove the cited violation or unsafe

condition, shall be liable to a fine as defined in §42-16. If a fine is not satisfied within five (5) days, a stop-work order will be issued on the entire site.

§ 42-14 Construction signs.

[Amended 7-12-1996 by Ord. No. 57-96; 2-8-2002 by Ord. No. 107-01; 2-8-2013 by Ord. No. 167-12]

One sign may be permitted for all building contractors, one for all professional firms and one for all lending institutions involved in the construction, enlargement, reconstruction or repair of a structure. Each such sign shall not exceed six square feet in area. Only freestanding signs are permitted. The height of each sign shall not exceed three feet in height. Each sign shall be removed upon completion of the project and prior to issuance of the certificate of compliance/occupancy.

§ 42-14.1 Environmental protection.

[Added 6-8-2001 by Ord. No. 98-01; amended 2-8-2013 by Ord. No. 167-12]

A. Prior to the start of construction, the permittee shall install a silt fence in accordance with Standard Detail 19 of the Sussex Conservation District. The silt fence shall extend along all side and rear property lines.

B. Within three days of completion of the footing or piles, the permittee shall install a stabilized construction entrance in accordance with the standard detail maintained by the Code Enforcement Constable.

C. Any excess materials, mud, etc., or other debris that is tracked on the roads shall be removed daily.

D. Both the stabilized entrance and the silt fence shall be maintained throughout the project but shall be removed prior to issuance of the certificate of compliance/occupancy and only after all final grading and stabilizing ground cover is in place.

E. The use of any property, other than the construction site itself, for construction or other related activities shall require the advance written approval of the affected property owner. Restoration and cleanup shall be in accordance with the applicable provisions of the Town codes and the owner's approval.

F. The Code Enforcement Constable may waive any of the requirements of this section when, in his judgment, the project is of such a nature, that the ground remains stabilized so that the environmental protection required by this section is not necessary.

§ 42-14.2 Site sanitation.

[Added 6-8-2001 by Ord. No. 98-01; amended 2-8-2013 by Ord. No. 167-12]

A. Within three days of completion of the footing or installation of the piles, the permittee shall place a transportable rubbish container on the construction site. This container shall be trailer- or truck-mounted or may be a commercial roll-off type. A trash enclosure is not permitted. The permittee must prevent any debris from blowing out of the rubbish container.

B. For all construction when water or sewer is disconnected, or the plumbing fixtures removed, the permittee shall place a portable toilet on the site.

C. Both the rubbish container and portable toilet shall be removed prior to the issuance of a certificate of compliance occupancy.

§ 42-14.3 Periods of prohibited construction.

[Added 2-8-2013 by Ord. No. 167-12; amended 11-14-2014 by Ord. No. 174-14]

No construction work shall be conducted between the hours of ~~6:00~~ **5:00** p.m. and 8:00 a.m. by any contractor or ~~between the hours of 8:00 p.m. and 8:00 a.m. by any~~ property owner. ~~With the exception of repairs and maintenance,~~ **No** construction work shall be performed on any Saturday ~~or national holiday~~ from May 15 through September 15, or any Sunday **or observed Federal holiday** throughout the year, other than by owners or their family members working on their own properties. Emergency repairs may be made at any time. For the purpose of this section, the definition of "construction" shall include:

A. Construction as defined in Zoning Code, Article III, § 145-3B.

B. Delivery or pickup of materials, equipment, machinery, rubbish containers and portable toilets.

C. Pework or post-work activities, including but not limited to running of equipment; operating machinery; mixing of concrete or mortar; assembling or disassembling of scaffolding; placing or removing ladders; loading, stacking or unloading of materials.

D. It shall be the responsibility of the property owner or his agent to inform delivery companies of these restrictions. The property owner or his agent shall be subject to penalties for violations by delivery companies.

E. For purposes of this section, "owner" is defined as and is limited to the person(s) or entity owning the property **and excludes property managers, handymen, or other for-hire contractors.**

§ 42-16 Penalties for offenses.

[Amended 9-8-1995 by Ord. No. 50-95; 2-8-2002 by Ord. No. 107-01; 9-10-2021 by Ord. No. 203-21]

Violation of the provisions of this chapter or failure to comply with any of its requirements shall be punishable by a civil penalty as defined. ~~in the Town's fee schedule for each offense.~~ Whenever a **person property owner** shall have been notified in **writing return receipt requested**, by the Code Enforcement Constable or Town Manager or other authorized Town official that the person is violating a specific provision of this chapter, each day that the person shall continue the violation, ~~shall constitute a separate offense punishable by like penalty~~ **shall be subject to a civil penalty of \$250.00 for the first offense, which penalty shall increase to \$500.00 for each subsequent violation, not to exceed \$1,000.00, per continuing violation, plus court costs. Each day of continued violation shall be considered as a separate and subsequent offense.** ~~The owner or tenant of any building, structure, premises or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violations may also be subject to the civil penalties herein provided.~~

If any provision(s) of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision and, to this end, the provisions of this Ordinance are hereby declared to be severable.

Effective date. This ordinance shall become effective upon its passage by a majority vote of the Town Council of the Town of South Bethany.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH BETHANY, SUSSEX COUNTY, DELAWARE, ON THE 9 OF ~~November~~ 2023.

SEAL:



Tim Saxton, Mayor

Edie Dondero, Council Secretary

ATTEST:

1st Reading: 10/13/2023
2nd Reading: 11/9/2023

