

ORDINANCE NO. 2024-00034

AN ORDINANCE AMENDING ARTICLES 28.01, 28.02, 28.03, 28.04, 28.05, 28.06, 28.07, AND 28.08 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS WITH REGARD TO THE GENERAL PROVISIONS OF BUILDING REGULATIONS, ADMINISTRATION AND ENFORCEMENT OF BUILDING REGULATIONS, MATERIALS, EQUIPMENT AND METHODS RELATED TO BUILDING REGULATIONS, CONTRACTOR REGISTRATION, PERMITS AND INSPECTIONS, CERTIFICATE OF USE AND OCCUPANCY PROVISIONS, MOVEMENT AND RELOCATION OF STRUCTURES, AND DEMOLITION OF BUILDINGS AND STRUCTURES; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock, Texas deems it in the best interest of the citizens of the City of Lubbock to protect their health, safety, and welfare to make the following amendments to: the general provisions of building regulations; administration and enforcement of building regulations; materials, equipment and methods related to building regulations; contractor registration; permits and inspections; certificate of use and occupancy provisions; movement and relocation of structures; and demolition of buildings and structures; and

WHEREAS, the City Council hereby exercises its authority under Article 11, Section 5, of the Texas Constitution as a home rule city to enact regulations not inconsistent with the general laws of the State of Texas in the interest of the health, safety and welfare of the citizens of the City of Lubbock; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT Articles 28.01, 28.02, 28.03, 28.04, 28.05, 28.06, 28.07, and 28.08 of the Code of Ordinances of the City of Lubbock is hereby amended to read as follows:

ARTICLE 28.01
GENERAL PROVISIONS

§ 28.01.001 **Title.**

The regulations contained in Articles **28.01** through **28.18** of this chapter shall be collectively known as the building code of the City of Lubbock, hereinafter referred to as "this code."

Editor's note – Terms italicized in Articles 28.01 – 28.09, other than document titles, are defined in Chapter 2 of the International Building Code. Terms italicized in Articles 28.10 – 28.18, other than document titles, are defined in Chapter 2 of each specified code, excluding the National Electrical Code. Where italicized, the Chapter 2 definition applies. If not italicized, common-use definitions apply.

§ 28.01.002 **Scope.**

- (a) The provisions of this code shall apply to the construction, *alteration*, relocation, enlargement, replacement, *repair*, equipment, use and occupancy, location, maintenance, removal and demolition of every *building* or *structure* or any appurtenances connected or attached to such *buildings* or *structures*, as well as the construction, *alteration*, relocation, enlargement, replacement, *repair*, maintenance, removal and demolition of building systems governed by the specific technical codes referenced in the following articles of this chapter:

Article **28.09**: The International Building Code, as amended;

Article **28.10**: The International Plumbing Code, as amended;

Article **28.11**: The International Mechanical Code, as amended;

Article **28.12**: The National Electrical Code (NFPA 70), as amended;

Article **28.14**: The International Residential Code, as amended;

Article **28.15**: The International Fuel Gas Code, as amended;

Article **28.16**: The International Energy Conservation Code, as amended;

Article **28.17**: The International Existing Building Code; as amended;

Article **28.18**: The International Swimming Pool and Spa Code; as amended;

- (b) The general administrative provisions of this article are applicable to all work governed by the provisions of Articles 28.09-28.18. Supplemental administrative provisions applicable to the specific technical documents adopted in Articles 28.09-28.18 of this chapter are included within the applicable article, as are the technical provisions pertaining to that class of work. Articles 28.09-28.18, as they existed on the date of adoption of this section, shall continue in full force and effect until such time as the specific technical codes referenced above are individually adopted.

Editor's note—See corresponding note located in Appendix A of this code.

§ 28.01.003 **Appendices.**

Provisions in the appendices of the technical codes shall not apply unless specifically set forth in the applicable article.

§ 28.01.004 **Intent.**

The purpose of this code is to establish the minimum requirements to provide a reasonable level of safety, health and general welfare through structural strength, *means of egress*, stability, sanitation, light and *ventilation*, energy conservation, and for providing a reasonable level of life safety and property protection from the hazards of fire, *explosion* or *dangerous* conditions, and to provide a reasonable level of safety to fire fighters and emergency responders during emergency operations.

§ 28.01.005 **Referenced codes.**

The technical codes listed in Section **28.01.002** and adopted in Articles **28.09** through **28.18** shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where a conflict is determined to exist between said codes and the provisions of this article and Articles **28.02** through **28.08**, the provisions of the more specific code will generally govern, subject to approval of the building official.

§ 28.01.006 **General applicability.**

Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

§ 28.01.007 **Other laws.**

The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

§ 28.01.008 **Application of references.**

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

§ 28.01.009 **Referenced codes and standards.**

The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

§ 28.01.010 **Partial invalidity.**

In the event that any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

§ 28.01.011 **Existing structures and buildings.**

The legal occupancy of any *structure* or *building* existing on the date of adoption of this code shall be permitted to continue without change, except as is otherwise specifically provided in this code, the International Existing Building Code, the City of Lubbock's Property Maintenance Code or the International Fire Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public. A *building* or portion of a *building* that has not been previously occupied or used for its intended purpose in accordance with the laws in existence at the time of its completion shall comply with the provisions of the International Building Code or International Residential Code, as applicable, for new construction or with any current *permit* for such occupancy.

§ 28.01.012 **Connection of service utilities prior to approval.**

It shall be unlawful for any person or utility company to make any permanent or temporary connection from a utility, source of energy, fuel or power to any new building or system that is regulated by this code until released by the building official.

§ 28.01.013 **Temporary connection of utilities.**

The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power for construction and other approved circumstances. It shall be unlawful for any building to be occupied by the permanent residents or tenants while temporarily connected to utilities.

§ 28.01.014 **Unsafe structures and equipment.**

All buildings or structures which are or hereafter become structurally unsafe, unsanitary or deficient because of inadequate *means of egress*, inadequate light and *ventilation*, or which constitute a fire hazard, or are otherwise *dangerous* to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment, or by reason of illegal or improper occupancy as specified in the Code of Ordinances or any other ordinance, are, for the purpose of this section, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in Section **34.01.001** of the Code of Ordinances, the City of Lubbock Property Maintenance Code, or by any other procedures provided by law. To the extent that repairs, *alterations*, or *additions* are made or a *change of occupancy* occurs during the restoration of the structure, such *repairs*, *alterations*, *additions* and *change of occupancy* shall comply with the requirements of the International Existing Building Code.

§ 28.01.015 **Model codes and construction advisory board.**

Provisions concerning the model codes and construction advisory board are as provided in Article **2.03**, Division 13 of this code.

§ 28.01.016 **Building board of appeals.**

Provisions concerning the building board of appeals are as provided in Article 2.03, Division 14 of this code.

ARTICLE 28.02
ADMINISTRATION AND ENFORCEMENT

Division 1
Generally

§ 28.02.001 **Liability.**

The *building official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be civilly or criminally rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The *building official* or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

§ 28.02.002 **Work done in violation of licensing laws.**

It shall be unlawful for a general contractor, subcontractor, owner or builder to perform, or to allow or permit to be performed, any electrical, plumbing or mechanical work, on a project permitted by him or otherwise within his control, by any person not in possession of the required license, or in violation of the provisions of any licensing law of the State of Texas or the City of Lubbock, where such laws require licensing and are applicable to the work in question.

§ 28.02.003 **Unlawful acts.**

It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, *repair*, move, remove, demolish or occupy any building, structure, system or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions herein, or any rules established by the building official for the administration of this code. It shall also be unlawful for any person, firm or corporation to fail to abide by a lawful order or directive given by the building official for purposes of securing the intent of this code.

§ 28.02.004 **Notice of violation.**

The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, *alteration*, extension, *repair*, movement, removal or demolition of any building or system regulated by this code, or occupancy of a building or structure in violation of the provisions of this code, or in violation of a *permit* or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

§ 28.02.005 **Prosecution of violation.**

If the notice of violation is not complied with promptly, the *building official* is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Additionally, the building official may file, or cause to be filed, a criminal complaint in municipal court for any violation of this code.

§ 28.02.006 **Penalties for violation.**

Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building, structure or regulated system in violation of the *approved construction documents* or a directive of the *building official*, or of a *permit* or certificate issued under the provisions of this code, shall, upon conviction, be subject to a fine, and each day that such violation is allowed to exist shall constitute a separate offense.

§ 28.02.007 **Stop work orders—Issuance.**

Where the *building official* 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 *building official* is authorized to issue a stop work order.

§ 28.02.008 **Same—Form and contents.**

The stop work order shall be in writing and shall be given to the *owner* of the property involved, the owner's authorized 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.

§ 28.02.009 **Same—Unlawful continuance of work.**

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

§ 28.02.010 **Emergencies.**

Where an emergency exists, the *building official* shall not be required to give a written notice prior to stopping the work.

§ 28.02.011 **through § 28.02.050. (Reserved)**

Division 2
Department of Building Safety and Building Official

§ 28.02.051 **Creation of enforcement agency.**

The department of building safety is hereby created and the official in charge thereof shall be known as the *building official*. The function of the agency shall be the implantation, administration and enforcement of the provisions of this code.

§ 28.02.052 **Appointment of building official.**

The *building official* shall be appointed by the chief appointing authority of the jurisdiction.

§ 28.02.053 **Deputies.**

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *building official* shall have the authority to appoint a deputy building official, other related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the *building official*.

§ 28.02.054 **General duties and powers of building official.**

The *building official* is hereby authorized and directed to enforce the provisions of this code. The *building official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its

provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code. The *building official* shall have authority as necessary in the interest of public health, safety and general welfare to adopt and promulgate rules and regulations to interpret and implement the provisions of this code to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering practice involving public safety.

§ 28.02.055 Applications and permits.

The *building official* shall receive applications, review *construction documents* and issue *permits* for the erection, and *alteration*, demolition and moving of buildings and structures, inspect the premises for which such *permits* have been issued and enforce compliance with the provisions of this code.

§ 28.02.056 Notices and orders.

The *building official* shall issue all necessary notices or orders to ensure compliance with this code.

§ 28.02.057 Inspections.

The *building official* shall make all of the required inspections, or the *building official* shall have the authority to accept reports of inspection by *approved agencies* or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved agency* or by the responsible individual. The *building official* is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

§ 28.02.058 Identification.

The *building official* shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

§ 28.02.059 Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this code, or where the *building official* has reasonable cause to believe that there exists in a structure or on a premises a condition that is contrary to or in violation of this code that makes the structure or premises unsafe, *dangerous* or hazardous, the *building official* is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the *building official* shall first make a reasonable effort to locate the *owner* or other person having charge or control of the structure or premises and request entry. If entry is refused, the *building official* shall have recourse to the remedies provided by law to secure entry. When the *building official* shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or person having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the *building official* for the purpose of inspection and examination pursuant to this code.

§ 28.02.060 Department records.

The *building official* shall keep official records of applications received, *permits* and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

§ 28.02.061 **Authority to disconnect service utilities.**

The *building official* shall have the authority to authorize immediate disconnection of temporary utility service to a building, structure or system regulated by this code. The *building official* shall have the authority to authorize disconnection of permanent utility service in case of emergency where necessary to eliminate an immediate hazard to life or property. The *building official* shall notify the serving utility, and wherever possible the *owner* or the *owner's* authorized agent and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. The placement of a door hanger shall be considered sufficient notification to the *owner* or the *owner's* authorized agent and occupant. If not notified prior to disconnecting, the *owner* or the *owner's* authorized agent or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter. It shall be unlawful for any person or utility company to refuse an order of the *building official* to disconnect a utility, source of energy, fuel or power to any building or system in accordance with this section.

§ 28.02.062 **Modifications.**

Where there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases, upon application of the *owner* or *owner's* representative, provided the *building official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, *accessibility*, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

ARTICLE 28.03
MATERIALS, EQUIPMENT AND METHODS

§ 28.03.001 **Approved materials and equipment.**

Materials, equipment and devices *approved* by the *building official* shall be constructed and installed in accordance with such approval.

§ 28.03.002 **Used materials and equipment.**

Materials that are reused shall comply with the requirements of this code for new materials. Used equipment and devices shall not be reused unless *approved* by the *building official*.

§ 28.03.003 **Alternative materials, design and methods of construction and equipment.**

The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where the *building official* finds that the proposed alternative meets all of the following:

1. The alternative material, design or method of construction is satisfactory and complies with the intent of the provisions of this code,
2. The material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code as it pertains to the following:
 - 2.1. Quality.
 - 2.2. Strength
 - 2.3. Effectiveness.

2.4. *Fire resistance.*

2.5. *Durability.*

2.6. *Safety.*

Where the alternative material, design or method of construction is not approved, the *building official* shall respond in writing, stating the reasons why the alternative was not approved.

§ 28.03.004 Research reports.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

§ 28.03.005 Tests.

Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made without expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures. Tests shall be performed by an *approved agency*. Reports of such tests shall be retained by the *building official* for the period required for retention of public records.

ARTICLE 28.04
CONTRACTOR REGISTRATION

§ 28.04.001 Registration of contractors required.

No permit for work required by this code shall be issued to any contractor or other person unless such contractor or person is registered with the building official of the city in accordance with the following provisions:

Exceptions:

- (1) No registration shall be required for a homeowner seeking a permit to perform authorized work on his/her existing primary personal residence (homestead), provided that the homeowner and/or a family member personally performs the work and no such person holds himself out as providing contracting services for the public. Any such homeowner seeking to construct his own home, including the installation and setup of any moved building or manufactured home, shall be required to be registered as a contractor.
- (2) No registration shall be required for a building owner seeking a permit to perform authorized work on rental residential property owned by him, or on business property owned and occupied by him, provided that he personally performs the work and does not hold himself out as performing contracting services for the public.
- (3) No registration shall be required for full-time building maintenance personnel seeking a permit to perform authorized work on a commercial building owned and occupied by persons employed by the same company or organization, provided that they do not hold themselves out as performing contracting services for the public.
- (4) The building official may require any proof deemed necessary to verify ownership and occupancy for the purposes of (1) and (2) above, and may require the applicant's execution of an affidavit attesting to any fact that cannot otherwise be verified, including a sworn statement that the project will not be subcontracted to other parties.

(5) The above exceptions shall not be construed as authorizing work for which a license is otherwise required by applicable state law.

§ 28.04.002 Requirements for registration.

Application for registration as a contractor shall be made upon forms provided by the building official. All data requested shall be provided. In addition to a completed application form, proof of insurance and/or bonding, as specified below, shall be provided at the time of application, as well as all required registration fees.

§ 28.04.003 Bond requirements.

Except as may otherwise be provided in this article, any person, firm or corporation seeking registration as a contractor in order to obtain permits required by this code shall file with the building official a good and sufficient bond in the amount of twenty thousand dollars (\$20,000.00) issued by a surety company authorized to do business in the state. Such bond shall contain language approved by the city attorney for its intended purpose, and shall be conditioned upon compliance with all provisions of the building code, and all other applicable ordinances and regulations of the city by the principal, his agents and employees. All sureties on said bond shall be liable for breach thereof to the city, to the owner of the property upon which work is performed, to any person, firm or corporation with whom the principal has contracted either orally or in writing to perform building construction, alteration, repair or other work, and to any person who may be damaged or injured by the principal's failure to comply with the regulations, ordinances and building code of the city. A claim upon said bond may be made by any person damaged by reason of the principal's failure to perform his obligations under the ordinances, building code and regulations of the city. Suspension or revocation of any license or permit shall not limit the liability of either the principal or the surety on any such bond.

§ 28.04.004 Insurance requirements.

Any person, firm or corporation seeking to obtain permits required by this code shall have in force a comprehensive general liability insurance policy in a minimum amount of one hundred thousand dollars (\$100,000.00) per occurrence, and including coverage for bodily injury and property damage with products liability and completed operations coverage. Prior to approval of any permits, the applicant shall furnish the building official with a certificate of insurance evidencing the required insurance coverage. The certificate shall include the company name and DBA, if applicable, and shall clearly indicate the nature of the work for which permits are sought. The insurance coverage shall include a provision that in the event such coverage is cancelled or reduced, the insurance carrier shall notify the building official at least ten (10) days prior to such cancellation or reduction in coverage. Any active permit shall be automatically suspended during any period in which the applicant fails to maintain in effect the required insurance coverage.

§ 28.04.005 Denial, suspension and revocation.

The building official may deny, suspend, or revoke a contractor registration under the following conditions:

- (1) Failure to accurately complete the application form;
- (2) Failure to obtain and keep in effect required insurance or bonds;
- (3) Failure to pay required fees;
- (4) Receipt of a notice of insufficient funds for checks made payable to the City of Lubbock for registration or permit fees;
- (5) Providing false information on any application;
- (6) Failure to maintain and keep in effect any license, registration, or certification required by the State of Texas in order to legally pursue the applicable

construction trade, or violation of applicable State of Texas licensing laws;

- (7) Refusal to correct violations of this code after notice;
- (8) Continuous or repeated violations of the city Code of Ordinances or applicable state or federal laws;
- (9) Gross technical incompetence, as evidenced by work quality not meeting applicable codes or accepted industry standards, that could reasonably be determined to constitute a hazard to the health, safety or welfare of any person;
- (10) Illegal behavior towards a government employee during the discharge of his or her official duties.
- (11) For purposes of (9) above, an acceptable guideline for determining "accepted industry standards" shall include the specifications recommended by the Construction Specifications Institute (CSI), and/or the performance standards promulgated by the Texas Residential Construction Commission.
- (12) With regard to (6)–(10) above, the registered contractor shall be responsible for the actions of all subcontractors or tradesmen performing work under the scope of the contractor's permit.

§ 28.04.006 Appeal of denial, suspension or revocation.

A situation where a registration has been denied, suspended or revoked under Section 28.04.005(7)–(9) above may be appealed to the license and permit appeals board.

§ 28.04.007 Expiration.

- (a) Registrations shall expire December 31 of each year and must be renewed annually in order to obtain permits or to continue work pursuant to active permits.
- (b) Failure to keep proper bonds or insurance in force will result in automatic termination of registration and will invalidate any active permits. In order to reinstate registration and any active permits, all fees, including registration and permit fees, must again be paid as for an initial application.

§ 28.04.008 Fees.

Registration for the year is valid from January 1st through December 31st and must be renewed annually. Annual renewal fee is for select contractor types, as allowed by state law. Fees may be adjusted by the city council periodically in accordance with section **1.03.004** of this Code of Ordinances.

§ 28.04.009 Responsibility for compliance with chapter.

The building owner and any contractor performing work governed by the technical codes are jointly responsible for compliance with the provisions of this chapter. Where a contractor is employed by the owner to perform said work, the contractor must be registered in accordance with section **28.04.001** of this article, and must obtain all required permits. Where a contractor is otherwise required to be licensed by the state to practice in his/her respective area, and the statutes governing that licensee prohibit the city from requiring that the licensee obtain a registration, permit, or other approval from the city in connection with their practice, then the property owner is responsible for ensuring compliance of the work with the provisions of this chapter, including any requirement to submit construction documents and obtain permits or inspection approvals. The term "property owner" includes authorized representatives of the owner, such as full-time maintenance personnel, property management agents, and employees working in a supervisory capacity with responsibility for the premises.

ARTICLE 28.05
PERMITS AND INSPECTIONS

Division 1
Generally

§ 28.05.001 **Permit required.**

Any *owner* or owner's authorized agent who intends to construct, enlarge, alter, *repair*, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, *repair*, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the *building official* and obtain the required *permit*.

§ 28.05.002 **Application for permit.**

To obtain a *permit*, the applicant shall first file an application therefor in writing or digitally typed on a form furnished by the department of building safety for that purpose. Such application shall:

- (1) Identify and describe the work to be covered by the *permit* for which application is made.
- (2) Describe the land on which the proposed work is to be performed by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
- (3) Indicate the use and occupancy for which the proposed work is intended.
- (4) Be accompanied by *construction documents* and other information as required in this article and Articles 28.09-28.18.
- (5) State the valuation of the proposed work.
- (6) Be signed by the applicant, or the applicant's authorized agent.
- (7) Give such other data and information as required by the *building official*.

§ 28.05.003 **Construction submittal documents.**

Submittal documents consisting of *construction documents*, statement of *special inspection*, geotechnical report and other data shall be submitted in a digital format, or one or more sets where allowed by the *building official*, with each application for a *permit*. *Construction documents* shall be prepared by and bear the seal(s) of the appropriate *registered design professional* as follows:

- (1) Architect registered in the state:
 - (A) As required by Section 1051.551 of the Texas Occupations Code;
 - (B) Where any building alteration is undertaken that will affect the means of egress within any building containing a Group A, E or I occupancy, or within any building where an egress path serving 50 or more occupants is affected;
 - (C) As otherwise required by the *building official*.
- (2) Engineer licensed in the state:
 - (A) As required by Section 1001.402 of the Texas Occupations Code;
 - (B) As otherwise required by the *building official*.

Exception:

The *building official* is authorized to waive the submission of *construction documents* and other data not required to be prepared by a *registered design professional* if it is found that the nature of the work applied for is such that review of *construction documents* is not necessary to obtain compliance with this code.

The *building official* is authorized to alter or waive the requirement that *construction documents* be prepared and sealed by a registered architect where the work involves the alteration of an egress system involving only the limited replacement of approved door hardware not involving the addition of access control or delayed egress locks.

§ 28.05.004 Information on construction documents.

Construction documents shall be dimensioned and submitted as an electronic media document. Construction documents drawn on suitable material are permitted to be submitted when *approved* by the *building official*. *Construction documents* shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the *building official*.

§ 28.05.005 Specific submittal requirements.

Submittal requirements specific to each of the technical codes are included in Articles 28.09–28.18.

§ 28.05.006 Examination of documents.

The *building official* shall examine or cause to be examined the accompanying submittal documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

§ 28.05.007 Approval of construction documents.

When the *building official* issues a *permit*, the *construction documents* shall be *approved*, in writing or by stamp, as "Reviewed for Code Compliance." One set of *construction documents* so reviewed shall be retained by the *building official*. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the *building official* or a duly authorized representative.

§ 28.05.008 Previous approvals.

This code shall not require changes in the *construction documents*, construction or designated occupancy of a structure for which a lawful *permit* has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

§ 28.05.009 Phased approval.

The *building official* is authorized to issue a *permit* for the construction of foundations or any other part of a building or structure before the *construction documents* for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such *permit* for the foundation or other parts of a building or structure shall proceed at the holder's own risk with building operation and without assurance that a *permit* for the entire structure will be granted.

§ 28.05.010 Design professional in responsible charge.

Where it is required that documents be prepared by a *registered design professional*, the *building official* shall be authorized to require the *owner* or the *owner's* authorized agent to engage and designate on the building *permit* application a *registered design professional* who shall act as the *registered design professional in responsible charge*. If the circumstances require, the *owner* or the *owner's* authorized agent shall designate a substitute *registered design professional in responsible charge* who shall perform the duties required of the original *registered design professional in responsible charge*. The *building official* shall be notified in writing by the *owner* or *owner's* authorized agent if the *registered design professional in responsible charge* is changed or is unable to continue to perform the duties. The *registered design professional in responsible charge* shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

§ 28.05.011 Deferred submittals.

Deferral of any submittal items shall have the prior approval of the *building official*. The *registered design professional in responsible charge* shall list the *deferred submittals* on the *construction documents* for review by the *building official*. Documents for *deferred submittal* items shall be submitted to the *registered design professional in responsible charge* who shall review them and forward them to the *building official* with a notation indicating that the *deferred submittal* documents have been reviewed and been found to be in general conformance to the design of the building. The *deferred submittal* items shall not be installed until the *deferred submittal* documents have been *approved* by the *building official*.

§ 28.05.012 Amended construction documents.

Work shall be installed in accordance with the *approved construction documents*, and any changes made during construction that are not in compliance with the *approved construction documents* shall be resubmitted for approval as an amended set of *construction documents*. Change orders and other amendments to the construction documents require review and approval in the same manner as that of the original *permit* documents prior to incorporating the changes in the field, unless otherwise approved by the *building official*.

§ 28.05.013 Retention of construction documents.

One set of *approved construction documents* shall be retained by the *building official* for a period of not less than 180 days from date of completion of the permitted work, or longer if required by state records retention laws or organizational policy.

§ 28.05.014 Action on application.

The *building official* shall examine or cause to be examined applications for *permits* and amendments thereto within a reasonable time after filing. An application shall not be considered "filed" until all initial submittal information, as indicated on applicable application forms, is received. Within 45 days from the date of filing of the application, if the *building official* is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the *building official* shall issue a *permit* therefor. If the *permit* is not issued for failure of the application or construction documents to conform to the requirements of applicable laws, the applicant shall be notified that the *permit* has been denied and the reasons therefor. Alternatively, if not denied for failure of the application or associated construction documents to meet applicable requirements, the *building official* may, prior to the expiration of 45 days from the filing date, negotiate a future date when the *permit* will be issued or denied.

§ 28.05.015 Time limitation of permit application.

An application for a *permit* for any proposed work shall be deemed to have been abandoned 180 days after the date the application is received, unless such application

has been pursued in good faith or a *permit* has been issued; except that the *building official* is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing prior to expiration, and justifiable cause demonstrated.

§ 28.05.016 Validity of permit.

The issuance or granting of a *permit* shall not be construed to be a *permit* for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. *Permits* presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a *permit* based on *construction documents* and other data shall not prevent the *building official* from requiring the correction of errors in the *construction documents* and other data. The *building official* is authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

§ 28.05.017 Expiration of permit.

Every *permit* issued shall expire by limitation and become invalid unless the work on the site authorized by such *permit* is commenced within 180 days after its issuance, or if the work authorized on the site by such *permit* is suspended or abandoned for a period of 180 days after the time the work is commenced. In determining the date of cessation of building activity, the *building official* may use the last inspection date associated with the *permit*, or any subpermits applicable to the project. The *building official* may consider proof of activity involving correspondence, invoices, checks, and other dated documents submitted by the contractor that are clearly associated with construction at the subject premises. The *building official* is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing prior to expiration, and justifiable cause demonstrated. A *permit* that has been allowed to expire may be extended for a 180-day period upon reapplication and payment of one-half of the original *permit* fees. Incomplete building projects where the *permit* has expired with no request for extension thereof shall be deemed abandoned and shall constitute a public nuisance actionable under the provisions of section **34.01.001** of this Code of Ordinances.

§ 28.05.018 Annual permit.

In lieu of an individual *permit* for each *alteration* to an already *approved* electrical, gas, mechanical or plumbing installation, the *building official* is authorized to issue an annual *permit* upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

§ 28.05.019 Annual permit records.

The person to whom an annual *permit* is issued shall keep a detailed record of *alterations* made under such annual *permit*. The *building official* shall have access to such records at all times or such records shall be filed with the *building official* as designated.

§ 28.05.020 Emergency repairs.

Where equipment replacements and repairs must be performed in an emergency situation, the *permit* application shall be submitted within the next working business day to the *building official*.

§ 28.05.021 Placement of permit.

The *permit* or an approved copy shall be kept on the site of the work in a manner and location to be determined by the *building official* until the completion of the project.

§ 28.05.022 Transferring of permit.

- (a) The *building official* shall issue only one *permit* per job site for the same or identical work with the following exceptions:
 - (1) Where the current permittee has failed to complete the work, is no longer associated with the project, and such fact is communicated in writing to the *building official* by the general contractor or owner;
 - (2) Where the *building official* is notified in writing by the current permittee that his contract for the work is no longer in effect; or
 - (3) Where the *building official* has been notified in writing by the general contractor or owner that the current permittee originally permitted to do the work at the job site has been replaced with a new contractor.
- (b) In every case where the *building official* determines that a new *permit* will be issued to a new contractor, and the scope of the work remains unchanged from that covered by the original *permit*, the person requiring such *permit* shall pay a transfer fee of two hundred fifty dollars (\$250.00), but in no case more than the fee for the original *permit*, and no refund shall ever be made on the original *permit* issued. Where the scope of the work has or will be changed such that a new plan review is necessary, the fee for the reissued *permit* shall be the same as that for a new project.
- (c) The *building official* is authorized to require any other type of evidence from the general contractor, owner or permittee which he deems necessary to determine whether to terminate an existing *permit* and issue a new *permit* for the same work. At the discretion of the *building official*, an investigative inspection of the premises that is the subject of the *permit* may be required to support a decision to terminate and/or reissue any *permit*. Fees for said inspection shall be paid in advance as per current fee schedules.
- (d) The issuance of a new *permit* under this section shall release the first permitted contractor or builder from any responsibility for compliance with this code for work completed by said contractor or builder and the newly permitted contractor or builder shall become responsible for compliance with this building code for the entire job, including work done by the prior contractor or builder.
- (e) The *building official* shall require the owner, general contractor or other interested person to execute an indemnity agreement agreeing to save harmless and defending the city and *building official* from any and all liability which may be alleged as a result of the issuance of a new *permit* under this section and to require said agreement to be secured by bonds and insurance deemed appropriate unless a release is signed by all parties.
- (f) This section shall apply to all types of *permits* issued by the *building official*.

§ 28.05.023 through § 28.05.060. (Reserved)

Division 2
Exemptions

§ 28.05.061 **Work exempt from permit.**

Exemptions from *permit* requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Where determined by the *building official*, *permits* may be waived for small and unimportant work, and as set forth in Sections **28.05.062** through **28.05.068** of this division.

§ 28.05.062 **Building work.**

[Building work exempted is as follows:]

- (1) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet (11.15 m²).
- (2) Fences not over 7 feet (2134 mm) high.
- (3) Oil derricks.
- (4) Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding class I, II or III-A liquids.
- (5) Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not exceed 2 to 1.
- (6) Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any *basement* or *story* below and which are not part of an *accessible route*.
- (7) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
- (8) Temporary motion picture, television and theater stage sets and scenery.
- (9) Prefabricated *swimming pools* accessory to a Group R-3 occupancy, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18,925 L) and are installed entirely above ground.
- (10) Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
- (11) Swings and other playground equipment accessory to detached one- and two-family *dwelling*s.
- (12) Window awnings in Group R-3 and U occupancies, supported by an *exterior wall* which do not project more than 54 inches (1372 mm) from the *exterior wall* and do not require additional support.
- (13) Movable and nonfixed cases, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

§ 28.05.063 **Electrical work.**

[Electrical work exempted is as follows:]

- (1) Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of *approved* portable electrical equipment to *approved* permanently installed receptacles.
- (2) Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for power supply, the installations of towers and antennas.
- (3) Temporary testing systems: A *permit* shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.
- (4) Other work exempted by the National Electrical Code.

§ 28.05.064 **Gas work.**

[Gas work exempted is as follows:]

- (1) Portable heating appliance.
- (2) Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
- (3) Other work exempted by the International Fuel Gas Code.

(1983 Code, sec. 6-42.3; Ordinance 2005-O0140, sec. 1, adopted 12/15/2005)

§ 28.05.065 Mechanical work.

[Mechanical work exempted is as follows:]

- (1) Portable heating appliance.
- (2) Portable ventilation equipment.
- (3) Portable cooling unit.
- (4) Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
- (5) Replacement of any part which does not alter its approval or make it unsafe.
- (6) Portable evaporative cooler.
- (7) Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.
- (8) Other work exempted by the International Mechanical Code.

§ 28.05.066 Plumbing work.

[Plumbing work exempted is as follows:]

- (1) The stopping of leaks in drains, water, soil, waste or vent pipe provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a *permit* shall be obtained and inspection made as provided in this code.
- (2) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.
- (3) Other work exempted by the International Plumbing Code.

§ 28.05.067 Repairs exempt from permitting requirements.

Application or notice to the *building official* is not required for ordinary *repairs* to structures, replacement of lamps or the connection of *approved* portable electrical equipment to *approved* permanently installed receptacles. Such *repairs* shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required *means of egress*, or rearrangement of parts of a structure, including doors, hardware or security systems, affecting the egress requirements; nor shall ordinary repairs include *addition to, alteration of, replacement or relocation* of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

§ 28.05.068 Public service agencies.

A *permit* shall not be required for the installation, *alteration* or repair of generation,

transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

§ 28.05.069 through § 28.05.100. (Reserved)

Division 3
Fees

§ 28.05.101 **Required.**

A *permit* shall not be valid until the fees prescribed herein have been paid, nor shall an amendment to a *permit* be released until the additional fee, if any, has been paid. Unless otherwise specified below, fees for *permits* required by this code shall be paid at the time of issue. Fee amounts shall be in accordance with the *permit* fee schedule as adopted by the city council in the city's budget and periodically adjusted pursuant to Section 1.03.004 of this Code of Ordinances. A schedule of such fees shall be filed with the city secretary and with the *building official*.

§ 28.05.102 **Building permit valuations.**

The applicant for a *permit* shall provide an estimated *permit* value at time of application. *Permit* valuations shall include total value of work, including materials and labor, for which the *permit* is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the *building official*, the valuation is underestimated on the application, the *permit* shall be denied, unless the applicant can show detailed estimates to meet the approval of the *building official*. Final building *permit* valuation shall be set by the *building official*.

§ 28.05.103 **New construction permit fees.**

- (a) *One- and two-family dwellings.* Building *permit* fees shall be a set dollar amount per square foot of gross building area under roof, inclusive of all stories, unheated attached garages, covered porches and balcony areas. Building *permit* fees for detached accessory buildings associated with one- and two-family dwellings shall be a set dollar amount per square foot of gross building area under roof, including unheated areas. Building *permit* fees for additions to existing floor area shall be as for new construction except that the gross floor area of the addition alone shall be used to determine appropriate fees. The minimum permit fee shall apply; however, where more than one inspection is required an additional fee may be applied for each such additional inspection.
- (b) *New construction other than one- and two-family dwellings.* Building *permit* fees shall be a set dollar amount per square foot of gross building area under roof, inclusive of all stories and covered unenclosed areas. Building *permit* fees for additions to existing floor area shall be as for new construction except that the gross floor area of the addition alone shall be used to determine appropriate fees. The minimum permit fee shall apply; however, where more than one inspection is required an additional fee may be applied for each such additional inspection.
- (c) *Plumbing, mechanical and electrical systems.* *Permit* fees for plumbing, mechanical, electrical and other systems associated with new construction shall be as set forth in the applicable Article 28.10 – 28.18.

§ 28.05.104 **Renovation and remodeling permit fees.**

- (a) *One- and two-family dwellings.* Building *permit* fees for renovation and remodeling of one- and two-family dwellings, as well as buildings accessory thereto, shall be a set dollar amount per \$1,000.00 construction valuation or fraction thereof. The minimum permit fee shall apply; however, where more than one inspection is required an additional fee may be applied for each such additional inspection.

- (b) Other than one- and two-family dwellings. Building *permit* fees for renovation or remodeling of buildings other than one- and two-family dwellings shall be a set dollar amount per \$1,000.00 construction valuation or fraction thereof. The minimum permit fee shall apply; however, where more than one inspection is required an additional fee may be applied for each such additional inspection.
- (c) Plumbing, mechanical and electrical systems. *Permit* fees for plumbing, mechanical, electrical and other systems proposed for alteration, rehabilitation or remodel shall be as set forth in the applicable article 28.10–28.16.
- (d) Stated construction valuations for purposes of determining applicable *permit* fees are subject to verification by the *building official*. Toward that end, the *building official* may require contracts, invoices, or other proof as necessary in order to determine the appropriate valuation. Where such proof cannot be readily obtained, the *building official* may assign a reasonable valuation for the proposed work, or may refuse to issue *permits* pending receipt of acceptable proof.

§ 28.05.105 Reinspections.

Where any required inspection has not been approved, the inspector has the discretion, within the parameters of department policy, to allow construction to proceed without reinspection of corrective action. Where corrective action and reinspection is deemed to be required, a reinspection fee shall be paid to the building safety department prior to scheduling of the reinspection. For subsequent reinspections where the prior violation has not been corrected, the *building official* may, in addition to the original reinspection fee, assess additional reinspection fees in increasing increments up to a maximum amount. As an alternative, the contractor may agree in advance to have the reinspection fees assessed against the *permit* and then agree to pay all such fees prior to issuance of final approvals, or, where applicable, issuance of certificates of occupancy or completion.

§ 28.05.106 Work commenced prior to permit.

Where work for which a *permit* is required by this code is unlawfully started without first obtaining said *permit*, a fee multiplier of 200% of the normal fee shall be applied to the *permit* when issued. If the offender has proceeded with unpermitted work at other sites prior to obtaining the required *permit* for the first site, a multiplier of 300% shall be applied to the second such site, and 400% to the third and subsequent sites. The increased *permit* fees shall be in addition to any investigative inspection fees or court fines. The multiplier shall not apply to *permit* fees for unlawful reroofing, building-movement or demolition projects, where the minimum fee for each such project shall be one hundred dollars (\$100.00) or double the normal *permit* fee, whichever is greater. The payment of such increased fees shall not relieve any person from fully complying with the requirements of this code in the execution of the work, nor from any other penalties prescribed herein.

§ 28.05.107 Governmental and not-for-profit entities.

No governmental entity or nonprofit organization shall be exempt from payment of *permit* fees unless specifically exempted by state or federal law; however, no fees shall be required from a governmental entity when the work is being performed personally by full-time maintenance personnel on the payroll of said governmental entity on buildings owned by that entity, subject to compliance with all applicable state or federal laws.

§ 28.05.108 Plan review fees.

When *construction documents* and/or other data are required to be submitted in order to verify conformance with applicable codes prior to issuance of a *permit*, a plan review fee shall be paid at the time of submittal for that *permit*, which fees are

separate and in addition to applicable *permit* fees. The initial plan review fee shall be equivalent to 25% of the "master" *permit* fee associated with the project. Resubmittal of plans for the purpose of verifying that corrections identified in the initial review have been made shall be allowed once without incurring additional review fees. Subsequent reviews, either to verify corrections have been made or to review change orders or other plan amendments, shall require payment of additional review fees equivalent to 5% of the "master" or minimum *permit* fee, which must be paid in advance of review if the *permit* has already been issued. Plan review fee is nonrefundable. Projects within the scope of the International Residential Code are exempt from plan review fees.

§ 28.05.109 **Refunds.**

The *building official* is authorized to establish a refund policy in keeping with overall financial policies of the city.

§ 28.05.110 through § 28.05.150. (Reserved)

Division 4
Temporary Structures and Uses

§ 28.05.151 **Permit issuance.**

The *building official* is authorized to issue a *permit* for temporary structures and temporary uses. Such *permits* shall be limited as to time of service, but shall not be permitted for more than 180 days. With the advice and consent of the code enforcement administrator, the *building official* is authorized to grant a single 180-day extension for demonstrated cause. Upon termination of the original or extended period, the temporary use shall be discontinued, or where applicable, the temporary structure shall be demolished or moved pursuant to the requirements of Articles 28.01 through 28.08 of this chapter.

§ 28.05.152 **Conformance.**

Temporary structures and uses shall conform to the structural strength, fire safety, *means of egress*, accessibility, light, *ventilation* and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare. Temporary structures and uses shall also comply with the requirements in Section 3103.

§ 28.05.153 **Temporary electric power.**

The *building official* is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in NFPA70.

§ 28.05.154 **Termination of approval.**

The *building official* is authorized to terminate such *permit* for a temporary structure or use and to order the temporary structure or use to be discontinued.

§ 28.05.155 through § 28.05.190. (Reserved)

Division 5
Termination, Suspension or Revocation of Permit

§ 28.05.191 **Termination of permits.**

If the *building official* determines that a general contractor, subcontractor, owner or builder is in violation of Articles 28.01 through 28.08 of this chapter, then, in addition to all other civil or criminal remedies available, he may terminate the master

building *permit* and/or the subject electrical, plumbing, or mechanical trade *permits* for that project. Notice of such *permit* termination shall be given by issuance of a stop work order stating the reason for the termination, that the *permits* are thereby terminated, and ordering work under the terminated *permits* to immediately cease.

§ 28.05.192 Hearing before building official.

Any general contractor, subcontractor, owner or builder who has had a *permit* so terminated may immediately request a hearing concerning such termination before the *building official*. The *building official* shall convene the hearing within five (5) days of receipt of a written request.

§ 28.05.193 Appeal of decision.

Subsequent to the requested hearing, if the *building official* has upheld the termination of *permits*, his decision may be appealed to the *permit* and license appeals board as follows:

- (1) A written request for appeal must be made to the board within five (5) days of the date on which the *building official* rendered his decision.
- (2) The board will hear the appeal at their next regularly scheduled meeting, provided that the written request for appeal is received by the *building official* and forwarded to the board's staff representative within sufficient time prior to the next meeting of the board.
- (3) While the appeal is pending, work may continue under the terminated *permit* if a refundable deposit has been left with the building department in the amount of the applicable *permit* renewal fee set out in Section 28.05.194 Item 1 of this code. This shall not be construed as permission to continue violating the applicable licensing laws originally giving rise to the termination of the *permits* in question; to do so constitutes a separate offense.
- (4) The hearing before the board shall be conducted in accordance with the procedures set out in Section **2.03.077** of the Code of Ordinances of the City of Lubbock, Texas.
- (5) The burden of proof shall be on the person appealing to show that the *permit* should not have been terminated and that a *permit* renewal fee should not therefore be required.
- (6) The decision of the board on any appeal taken under this section shall be final and binding with respect to the specific case before it.
- (7) If it is determined, either by the *building official* in the initial hearing or the appellate board subsequent to appeal, that plumbing, mechanical or electrical *permits* were properly terminated for violation of applicable licensing laws, the offending plumbing, mechanical or electrical subcontractor shall not be allowed to renew his *permit* with respect to the subject project.

§ 28.05.194 Renewal of permit.

A *permit* terminated under this division shall only be renewed as follows:

- (1) For subcontractor trade *permits*, the builder/general contractor or *owner*, as applicable, shall submit a statement to the *building official* identifying who the new subcontractor(s) will be, and shall provide a copy of the signed subcontracts. The *building official* may then renew the terminated *permit(s)* in the name of the new subcontractor(s) for a minimum fee of one hundred dollars (\$100.00) each or 200% of the original *permit* fees, whichever is greater. The refundable deposit as required above may be applied in payment of such fees. For master building *permits* that have been terminated due to the violation of licensing laws by any subcontractor, such *permits* may be reissued to the original owner or contractor, as applicable.

- (2) The *building official* may require and shall receive, prior to issuance of any renewal *permit*, proof of contractor's or subcontractor's registrations, licenses, insurances and bonds, as well as signed contracts to substantiate the qualification of persons performing any construction, plumbing, electrical or mechanical work within the City of Lubbock.

§ 28.05.195 Suspension or revocation.

The *building official* is authorized to suspend or revoke a *permit* issued under the provisions of this code wherever the *permit* is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

§ 28.05.196 through § 28.05.230. (Reserved)

Division 6
Inspections

§ 28.05.231 Scope.

Construction or work for which a *permit* is required shall be subject to inspection by the *building official* and such construction or work shall remain visible and able to be accessed for inspection purposes until *approved*. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the *owner* or owner's authorized agent to cause the work to remain visible and able to be accessed for inspection purposes. Neither the *building official* nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any equipment or materials required to facilitate required inspections.

§ 28.05.232 Preliminary inspection.

Before issuing a *permit*, the *building official* is authorized to examine or cause to be examined buildings, structures and *sites* for which an application has been filed.

§ 28.05.233 Required inspections.

The *building official*, upon notification by the responsible permittee that the work is completed and ready for inspection, shall make the inspections as set forth in Article 28.09 Division 3 and Section 28.14.003 Item (d) of this code, as applicable. In addition to the inspections specified in Article 28.09 Division 3 and Section 28.14.003 Item (d), the *building official* is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department of building safety.

§ 28.05.234 Reports of inspection agencies.

With prior written approval, the *building official* is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

§ 28.05.235 Inspection requests.

It shall be the duty of the holder of the building *permit* or their duly authorized agent to notify the *building official* when work is ready for inspection. It shall be the duty of the *permit* holder to provide access to and means for inspections of such work that

are required by this code.

§ 28.05.236 Approval required.

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *building official*. The *building official*, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the *permit* holder or the *permit* holder's agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the *building official*.

ARTICLE 28.06
CERTIFICATE OF USE AND OCCUPANCY

§ 28.06.001 Required.

A building or structure shall not be used or occupied in whole or in part, and a *change of occupancy* of a building or structure or portion thereof shall not be made, until the *building official* has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the *jurisdiction*. Certificates presuming to give authority to violate or cancel provisions of this code or other ordinances of the *jurisdiction* shall not be valid.

§ 28.06.002 Certificate issued.

- (a) After the *building official* inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the *building official* shall issue a certificate of occupancy that contains the following:
- (1) The *permit* number.
 - (2) The address of the structure.
 - (3) The name and address of the *owner*.
 - (4) A description of that portion of the structure for which the certificate is issued.
 - (5) A statement that the described portion of the structure has been inspected for compliance with the requirements of this code.
 - (6) The name of the *building official*.
 - (7) The edition of the code under which the *permit* was issued.
 - (8) The use and occupancy, in accordance with the provisions of Chapter 3 of the International Building Code.
 - (9) The type of construction as defined in Chapter 6 of the International Building Code.
 - (10) The design *occupant load*, where deemed appropriate.
 - (11) If an *automatic sprinkler system* is provided.
 - (12) Any special stipulations and conditions of the building *permit*.
- (b) Where a certificate is issued pursuant to work completed under the auspices of a building permit, the certificate shall be issued to the building contractor who obtained the permit upon completion and approval of all applicable

inspections. The contractor shall immediately cause the certificate to be displayed as required below. It is an offense under this chapter for any contractor to fail to display or to withhold the certificate from the owner or owner's agent for any reason. Where a certificate is issued pursuant to a change in occupancy classification where no work requiring a permit is involved, the certificate shall be issued directly to the building owner or his authorized agent, and shall be immediately displayed as set forth herein.

§ 28.06.003 Certificate of completion.

Whenever the scope of a contractor's work pursuant to a building permit, once completed and approved, does not result in a building that is ready for occupancy (as in the case of a shell building where multiple tenant finish-outs are proposed), a certificate of completion shall be issued in lieu of a certificate of occupancy. The certificate will be issued to the contractor. The certificate need not be displayed within the subject building. Such certificate remains the property of the City of Lubbock and may be revoked for cause in the same manner as a certificate of occupancy. No subsequent permits or certificates of occupancy shall be issued for the completion of any tenant space within a shell building unless a certificate of completion for the shell building has first been issued.

§ 28.06.004 Temporary occupancy.

The *building official* is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the *permit*, provided that such portion or portions shall be occupied safely. The *building official* shall set a time period during which the temporary certificate of occupancy is valid.

§ 28.06.005 Ownership and revocation.

A certificate of occupancy remains the property of the City of Lubbock, and is considered a license to occupy the building under the conditions of issuance. The *building official* is authorized to suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Code of Ordinances.

§ 28.06.006 Display.

A certificate of occupancy shall be prominently displayed within the building for which the certificate was issued, and shall be visible to building occupants, patrons, and public officials. In a case where the building to which the certificate pertains is not publicly accessible, as in the case of apartment buildings, the certificate shall be displayed within the business office of the facility.

§ 28.06.007 One- and two-family dwellings exempt from requirement for certificate.

Construction associated with one- and two-family dwellings under the scope of the International Residential Code shall be exempt from requirements for a certificate of occupancy; however, such buildings shall not be occupied or used until released by the building official after approval of all required inspections. Such approval is subject to revocation by the building official in the same manner as that for certificates of occupancy.

§ 28.06.008 Illegal occupancy; termination of utilities.

- (a) Any building occupied prior to release and authorization by the building official and connected to temporary utilities shall have said utilities terminated within ten (10) days after written notification to the utility company. A copy of the notification shall be provided to the occupant by way of certified mail, personal delivery, or posting on the door of the subject premises. Active permits pertaining to the building shall then be deemed

automatically cancelled. Before utilities are reconnected, the contractor or owner of record shall renew the building permit at a cost of not less than one hundred dollars (\$100.00), and make immediate arrangements, including coordination of a time mutually convenient to the occupant and the building official, for completion of required inspections. Identified violations of the technical codes shall be corrected to the satisfaction of the building official prior to reconnecting utilities.

- (b) Any building which has been erected or has undergone repairs or remodeling requiring permits under this code, and that has been occupied prior to the issuance of said permits, shall be immediately vacated and utilities terminated upon written order of the building official until compliance with all codes and ordinances has been established. The building official, with the concurrence of the fire marshal, may authorize temporary occupancy once it is established that there exists no fire, life-safety or health hazard associated with the building or use, and provided that the building owner is making an effort in good faith to comply with all permitting requirements.

§ 28.06.009 Existing buildings.

- (a) A new certificate of occupancy is required whenever there is a change in occupancy. Either of the following shall be considered as a change of occupancy where the International Building Code requires a greater degree of safety, accessibility, structural strength, fire protection, *means of egress*, ventilation or sanitation than is existing in the current building or structure:
 - (1) Any change in the occupancy classification of a building or structure.
 - (2) Any change in the purpose of, or a change in the level of activity within, a building or structure.
 - (3) A change of tenancy or ownership not otherwise associated with a change in occupancy classification or use does not require a new certificate of occupancy.
- (b) A new certificate of occupancy shall also be required whenever a remodel, renovation or building addition project is undertaken, regardless of the status of the occupancy classification.
- (c) A new certificate of occupancy may be required by the building official if it has been more than two years since the subject premises was inspected throughout and the owner or occupant is seeking any regulatory approval associated with the premises.
- (d) A new certificate of occupancy not otherwise required by these provisions may be obtained at the request of a building owner or tenant, subject to the approval of the building official and subsequent to an investigative inspection for structural, electrical, plumbing, mechanical and fire hazards. Any hazards so identified shall be corrected prior to approval of a new certificate. Fees for these services shall be as set forth below.
- (e) A lost certificate of occupancy may be reissued, subject to the approval of the building official, upon payment of a fee and execution of an affidavit by the building owner that building conditions, including use, have not changed since the date of original issue. The replacement certificate shall be clearly marked as a reissue of the original, and the date of the former shall be clearly marked thereon.

§ 28.06.010 Fees.

Fees associated with certificate of occupancy reissue and associated inspections shall be as follows: The fee for inspection of a single building and a certificate of occupancy shall be a set amount. On projects involving multiple buildings, the fees shall be a set amount for the first building and a reduced amount for each additional

building. Said fees are payable in advance and may be adjusted annually by the city council pursuant to section **1.03.004** of the Code of Ordinances.

ARTICLE 28.07
MOVEMENT AND RELOCATION OF STRUCTURES

§ 28.07.001 **Applicability.**

The movement of buildings and structures into, within or out of the city limits shall be governed by Chapter 14 of the International Existing Building Code, as amended (see Article **28.17** of this chapter).

§ 28.07.002 **Industrialized housing and buildings.**

The movement and installation of industrialized housing and buildings shall conform to the procedures, rules and requirements set forth in the rules of the Texas Department of Licensing and Regulation at 16 TAC chapter 70 as well as this code; where this code is in conflict with 16 TAC chapter 70, the latter shall govern to the extent of the conflict only.

§ 28.07.003 **Mobile homes.**

Mobile homes, defined by the Texas Manufactured Housing Standards Act as manufactured homes manufactured prior to June 15, 1976, and not meeting HUD standards, shall not be installed or relocated within the city limits.

§ 28.07.004 **HUD-code manufactured housing.**

The movement and installation of HUD-code manufactured homes shall conform to the procedures, rules and requirements set forth in the Texas Manufactured Housing Standards Act and the rules of the Texas Department of Housing and Community Affairs, as well as this code. Where this code is in conflict with the said rules, the latter shall govern to the extent of the conflict only.

ARTICLE 28.08
DEMOLITION OF BUILDINGS AND STRUCTURES

§ 28.08.001 **Permit required; compliance.**

No person or persons shall hereafter demolish any residential or commercial building or structure, within the limits of the City of Lubbock, Texas, unless said person shall, before demolition, secure a permit to do so from the building official. All such demolition projects shall comply with the provisions of this article, as well as Section 3303 of the International Building Code adopted pursuant to Article **28.09** of this chapter.

§ 28.08.002 **Permit fees.**

Demolition permits shall be obtained by a registered, insured contractor, or other person authorized to perform the work in accordance with section **28.04.001**. Demolition permit fees shall be the minimum permit fee.

§ 28.08.003 **Restoration of site.**

The demolition contractor or person performing such work shall take the following actions at the demolition site:

- (1) Provide protection of pedestrians during demolition as required by Chapter 3303 of the International Building Code.
- (2) Coordinate with the appropriate utility companies to disconnect and make safe all sources of electricity, water, fuel gas and sanitary sewer. Sanitary sewer outlets shall be capped or otherwise secured from rainwater infiltration.
- (3) Provide proper and adequate safeguards to the public, employees and

adjoining property during demolition and lot clearing activities, including obtaining street barricade permits where necessary for protection of vehicular traffic.

- (4) Fill all open excavations with clean fill dirt (no rubble or trash to be used).
- (5) Reestablish lot grades to convey stormwater runoff to the street, alley, or other approved conveyance without ponding and without directing stormwater runoff onto other private property.
- (6) Clear the lot of all trash, rubbish, building debris, dead shrubbery, tree limbs, etc.
- (7) In coordination with the appropriate department or franchise utility, repair all damage to public improvements incurred during the demolition activities, including, but not limited to, street surfaces, curb and gutter, sidewalks, driveway approaches, utility lines, signposts, drainage structures, etc.

SECTION 2. THAT violation of any provision of this ordinance shall be deemed a misdemeanor punishable as provided by Section 1.01.004 of the Code of Ordinances of the City of Lubbock, Texas.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary of the City of Lubbock, Texas, is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on March 5, 2024.

Passed by the City Council on second reading on March 26, 2024.

/s/ Tray Payne
TRAY PAYNE, MAYOR

ATTEST:

/s/ Courtney Paz
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

/s/ Robert Wallace
Robert Wallace, Director of Development Services

/s/ Amy Sims
Amy Sims, Deputy City Attorney