

ORDINANCE NO. 2009-28

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS, REPEALING THE CURRENT SECTIONS 3-6-1 AND 3-6-2 OF ARTICLE 3-6, "MECHANICAL CODE", OF CHAPTER 3, "BUILDING REGULATIONS", OF THE CITY OF ODESSA CODE OF ORDINANCES; ADOPTING NEW SECTIONS 3-6-1 AND 3-6-2 OF ARTICLE 3-3, "MECHANICAL", OF CHAPTER 3, "BUILDING REGULATIONS"; ADOPTING AN AMENDED VERSION OF THE 2006 INTERNATIONAL MECHANICAL CODE AND SUBSEQUENT 2006 INTERNATIONAL MECHANICAL CODE SUPPLEMENTS IN ORDER TO REGULATE THE DESIGN AND INSTALLATION OF MECHANICAL SYSTEMS, TOGETHER WITH CERTAIN RELATED MATTERS; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Odessa desires to adopt an amended version of the 2006 INTERNATIONAL MECHANICAL CODE and the 2006 INTERNATIONAL MECHANICAL CODE Supplements, the same to replace the City's existing plumbing code as amended; and

WHEREAS, the City of Odessa desires that there be no interval or intervening time between the effective date of this ordinance and the date of repeal of existing ordinances, and that this ordinance will not in any way repeal such existing ordinances until after publication and this ordinance is legally in effect;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS:

Section 1. That the current Sections 3-6-1 and 3-6-2 of Article 3-6, "Mechanical Code", of Chapter 3, "Building Regulations" of the City Code are to be repealed and that new Sections 3-6-1 and 3-6-2 of Article 3-6, "Mechanical Code", of Chapter 3, "Building Regulations", of the City Code are hereby adopted, which Sections shall read as follows:

Chapter 3 Building Regulations
Article 3-6 Mechanical Code

Sec. 3-6-1 Adoption

The 2006 version of the International Mechanical Code, as amended by subsequent provisions of this chapter, is hereby adopted by the City

Sec. 3-6-2 Amendments

The hereinafter set forth amendments to the 2006 International Mechanical Code, are hereby adopted by the City. When an amendment consists of a revision of an existing article, section, subsection, errata, table, appendices or other portion of the 2006 International Mechanical Code, the language of such amendment, to the extent that it is not in conflict with this ordinance, shall supersede the language of the respective portion amended. Amendments to the 2006 International Mechanical Code, consisting of the addition of new articles, sections, subsections,

errata, tables or other portions shall constitute supplements to such code.

101.1 Title. *Amend as follows:*

These regulations shall be known as the Mechanical Code of Odessa, Texas, hereinafter referred to as "this code."

102.2.1 Appendices - *Delete as written and insert the following:* The provisions of the appendices shall apply as amended.

106.2 Permits not required. Permits shall not be required for the following: *Amend to add the following:*

8. Mechanical instructors for the Ector County Independent School District (ECISD) may secure mechanical permits for installation of HVAC equipment in building trade homes built yearly.

106.3.2 *Amend to add the following:*

106.3.2 Who may be granted a mechanical permit. The following persons may be granted a mechanical permit:

1. Mechanical work done by a property owner in a building owned and occupied by him as his homestead;
2. Any mechanical contractor in possession of a class A air-conditioning license issued by the State Department of Licensing and Regulation and registered with the City.
3. Any mechanical contractor in possession of a class B air-conditioning license issued by the State Department of Licensing and Regulation and registered with the City.

Exception: A class B license entitles the licensee to obtain a permit to install, repair, or alter equipment that develops not more than twenty-five (25) tons cooling capacity and not more than 1.5 million BTUs per hour of heating capacity.

4. An agent of a registered mechanical contractor listed on the City's mechanical contractor registration form as authorized to obtain permits.

Amend to add the following:

106.3.3 Mechanical contractor's registration and regulations.

1. A person shall not engage in business as a mechanical contractor, nor establish, maintain or advertise a place of business under any name other than that registered with the Inspection Division, without being registered in the manner required by this section.
2. Prior to engaging in the contraction of mechanical work within the City of Odessa or areas or industrial districts in which City permits are required, the mechanical contractor and mechanical license holder must first make application for registration at the Office of the Inspection Division. Upon filing of an application in proper form, the Building Official shall register the applicant as a contractor provided they have qualified under the requirements of all state or local ordinances.
3. A mechanical contractor's registration shall entitle the mechanical contractor to secure permits and engage in the business of contracting for installation, replacement, alteration and/or repair in compliance with code requirements.
4. A mechanical contractor shall not engage in a contracting business within the City unless the business has the requisite license as required by the State of Texas and approved and registered by the City of Odessa.

5. The Building Official is authorized to withhold inspections and the issuance of permits to any mechanical contractor who fails to maintain the required insurance or an approved qualified license holder as required or any mechanical contractor.

6 Written notice shall be given immediately by both the employer and mechanical license holder to the Building Official when the required registered license holder leaves the employment of a person or contractor who is required by this code and State law to employ a qualified license holder. Permit privileges of the employer/contractor shall, without further order or action, be suspended until the contractor registers a qualified license holder.

7. A contractor shall provide a certificate of insurance for the following coverage:

(a) Each class A license applicant or holder shall have in force commercial general liability insurance in an amount not less than three hundred thousand dollars (\$300,000.00) combined for property damage and bodily injury sustained by one (1) or more persons, three hundred thousand dollars (\$300,000.00) aggregate (total amount the policy will pay), and three hundred thousand dollars (\$300,000.00) aggregate for products and completed operations. In the event claims occur which reduce the required coverage to a level of two hundred fifty thousand dollars (\$250,000.00) or less, the licensee shall reinstate the coverage to the original three hundred thousand dollar (\$300,000.00) amount or greater

(b) Each class B license applicant or holder shall have in force commercial general liability insurance in an amount not less than one hundred thousand dollars (\$100,000.00) combined for property damage and bodily injury sustained by one (1) or more persons, one hundred thousand dollars (\$100,000.00) aggregate (total amount the policy will pay), and one hundred thousand dollars (\$100,000.00) aggregate for products and completed operations. In the event claims occur which reduce the required coverage to a level of seventy-five thousand dollars (\$75,000.00) or less, the licensee shall reinstate the coverage to the original one hundred thousand dollar (\$100,000.00) amount or greater.

(c) The certificate of insurance must indicate the certificate holder as the City of Odessa, Building Inspection Division, P. O. Box 4398, Odessa, TX 79760

8. The registration of contractors shall remain valid for two (2) years at which time the contractor shall submit new registration.

Amend to add the following:

106.3.4 Mechanical contractor's required qualified license holder.

1. A qualified license holder shall not engage in a contracting business within the City unless he is registered as a contractor.

2. A qualified license holder who qualifies a contracting business assumes responsibility for the business complying with the provisions of this code in its entirety.

3. A license holder shall not register as the required license holder for a contractor or permit his name to be used unless he:

(a) Actively supervises and is responsible for the permit-required operation of the business;

(b) Is authorized to require the corrections of defects, errors, and deficiencies in the permitted work according to code requirements of work installed or performed by the

business.

4. Whenever a required registered license holder leaves the employment of a person who is required by this code [to employ a registered license holder], he shall immediately notify the Building Official.

106.3.5 ARC Technicians registration. Air conditioning technicians who perform air conditioning and refrigeration maintenance work must register with TDLR and have on their person valid TDLR Technician Registration.

106.5 .2 *Delete the paragraph as written, Insert the following:* See fee ordinance.

106.5.3 Fee Refunds. *Delete section 1, 2, and 3 as written and insert the following:*

1. In no case shall the amount for a minimum permit fee be refunded. Refunds for the amount in excess of the charge for a minimum permit fee may be refunded when no work has been done under a permit in accordance with this code.

2. Plan review fees may be refunded in full when an application for permit has been canceled or withdrawn before any plan review effort has been expended. Once plan review has started the amount in excess of a minimum plan review fee may be refunded on a basis of a charge on the percent of effort for the plan review that has been completed.

The last paragraph will remain as written.

108.4 *Amend as follows:*

108.4 Violations and penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs mechanical work in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000.00). Each day that violation continues shall be deemed a separate offense.

108.5 *Amend as follows:*

108.5 Stop work orders. Upon notice from the Building Official that mechanical work is being performed contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system 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 liable for a fine of not more than two thousand dollars (\$2,000.00).

108.8 *Amend as follows*

108.8 Unlawful continuance. Any person who shall continue any work in or about the structure 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 guilty of a misdemeanor punishable by a fine of not more than two thousand dollars (\$2,000.00). Each day that a violation continues shall be deemed a separate offense.

Section 109 Means of Appeal

109.1 *Amend to add the following:*

109.1 Application for appeal. Upon payment of the appropriate filing fee, a person shall have the right to appeal a decision of the Building Official to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed on a form obtained from the Building Official within twenty (20) days after the notice was served. The board shall have no authority to waive requirements of the code. *See building code amendments.*

109.2 Membership of board. *Delete as written and amend as follows:* See the requirements in building code.

109.2 General. The Building Board of Appeals is hereby created, in order to hear and decide appeals or orders, decisions or determinations made by the Building Official relative to the application and interpretation of the building code; the one- and two family dwelling code; the plumbing code; the fuel and gas code; the mechanical code; the electrical code; the energy conservation code; the existing building code; the performance code; or the property maintenance code. The Building Official shall be an ex officio member of said board but shall have no vote on any matter before the board. {*See building code.*}

109.2.1 Qualifications. *Delete as written and amend as follows:* See building code amendments.

109.2.2 Alternate members. *Delete as written and amend as follows:* See building code amendments.

109.2.3 Chairman. *Delete as written and amend as follows:* See building code amendments.

109.2.4 Disqualification of member. *Delete as written and amend as follows:* See building code amendments.

109.2.5 Secretary. *Delete as written and amend as follows:* See building code amendments.

109.2.6 Compensation of member. *Delete this section.*

109.3 Notice of meeting. *Delete as written and amend as follows:* See building code amendments.

109.4 Open hearing. *Delete as written and amend as follows:* See building code amendments.

109.5 Postponed hearing. *Delete as written and amend as follows:* See building code amendments.

109.6 Board decision. *Delete as written and amend as follows:* See building code amendments.

109.6.1 Resolution. *Delete as written and amend as follows:* See building code amendments.

109.6.2 Administration. *Delete as written and amend as follows:* See building code

amendments.

109.7 Court review. *Delete as written and amend as follows:* See building code amendments.

Section 2. That the herein adopted amended version of the 2006 INTERNATIONAL MECHANICAL CODE shall be in full force and effect 30 days after its adoption. On the date that the said amended version of the 2006 INTERNATIONAL MECHANICAL CODE is in full force and effect, then Ordinance No. 2002-30 as amended and such other and further existing ordinances as are inconsistent and incompatible with any provisions of the herein adopted amended version of the 2006 INTERNATIONAL MECHANICAL CODE shall be wholly repealed. In addition, nothing in this ordinance shall be construed to invalidate or cause to be void any of those provisions of the 2006 INTERNATIONAL MECHANICAL CODE that are not amended in this ordinance. Provided, further, that notwithstanding any of the foregoing, all buildings, structures, work, etc. for which a permit has been issued and/or work legally begun prior to the date the said amended version of the 2006 INTERNATIONAL MECHANICAL CODE is in full force and effect shall continue to be constructed, repaired, altered, moved, etc., under the provisions of the presently existing codes of the City of Odessa.

Section 3. That nothing contained in this ordinance shall in any manner whatsoever change, alter or otherwise affect the commission of or punishment for any offense, crime or act committed or done prior hereto, or any penalty or forfeiture incurred, or any prosecution whatsoever, or any suit or other proceedings pending, or any judgment rendered on or before the passage and publication of this ordinance, nor shall anything herein change, alter or otherwise affect any cause or action, contract or right established or accruing to the City or to any person, association or corporation, or any contract or obligation by or in favor of the City before same.

Section 4. If any section, subsection, sentence, clause or phrase herein is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of same shall not be affected thereby, it being the intent of the City Council in passing and adopting this ordinance that no portion hereof or provisions or regulations contained herein, shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase, portion, provision or regulation.

Section 5. That any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$2,000.00 as provided in Section 1-1-9, "General Penalty, continuing violations, right of entry, enforcement officers" Chapter 1, Odessa City Code, which section is adopted by reference and made a part hereof. Each day any such violation shall continue shall constitute a separate offense.

Section 6. The City Secretary is hereby directed to effect such publication as may be required by law in connection with the passage of this ordinance.

The foregoing ordinance was first approved on the 11th day of August, A.D., 2009, by the following vote:

Bill Cleaver	AYE
James B. Goates	AYE
Royce Bodiford	AYE
Dean Combs	AYE
Benjamin Velasquez	AYE

The foregoing ordinance was adopted on second and final approval on the 25th day of August, A.D., 2009, by the following vote:

Bill Cleaver	AYE
James B. Goates	AYE
Royce Bodiford	AYE
Dean Combs	AYE
Benjamin Velasquez	AYE

Approved this the 25th day of August, A.D., 2009.

Larry L. Melton, Mayor

ATTEST:

Norma Aguilar-Grimaldo, City Secretary

APPROVED AS TO FORM:

Larry Long, City Attorney