

ORDINANCE NO. 2007-13

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING ARTICLE III OF CHAPTER 14 THEREOF AND SUBSTITUTING THEREFORE A NEW ARTICLE III OF CHAPTER 14, ADOPTING THE 2003 EDITION OF THE INTERNATIONAL MECHANICAL CODE AND PROVIDING FOR AMENDMENTS TO THE INTERNATIONAL MECHANICAL CODE; DELETING SECTION 14-285 OF CHAPTER 14 THEREOF AND SUBSTITUTING THEREFORE A NEW SECTION 14-285 OF CHAPTER 14, ADOPTING THE 2005 EDITION OF THE NATIONAL ELECTRICAL CODE; DELETING SECTION 14-325 AND SECTION 14-328 OF CHAPTER 14 THEREOF AND SUBSTITUTING THEREFORE A NEW SECTION 14-325 AND SECTION 14-328 OF CHAPTER 14, ADOPTING THE 2003 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE AND PROVIDING FOR AMENDMENTS TO SUCH CODE, RESPECTIVELY; DELETING SECTION 14-405 AND SECTION 14-406 OF CHAPTER 14 THEREOF AND SUBSTITUTING THEREFORE A NEW SECTION 14-405 AND SECTION 14-406 OF CHAPTER 14, ADOPTING THE 2003 EDITION OF THE INTERNATIONAL PLUMBING CODE AND PROVIDING FOR AMENDMENTS TO SUCH CODE, RESPECTIVELY; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2000 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting Article III of Chapter 14 thereof and substituting therefore a new Section Article III of Chapter 14 to read as follows:

“ARTICLE III. AIR CONDITIONING AND MECHANICAL WORK*"

Sec. 14-65. International Mechanical Code adopted.

The *International Mechanical Code*, 2003 Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary."

Sec. 14-66. Amendments to the International Mechanical Code.

(a) Section 103 of said Code is hereby amended to provide as follows:

103 Department of Building Safety. The enforcement of this Code shall be under the administrative and operational control of the building official. The building official shall be selected and serve in the position at the pleasure of the City Council and may be removed without cause by City Council. The building official may appoint deputies to assist him/her, subject to City Council approval. Said deputies shall serve at the pleasure of the City Council and may be removed without cause by the City Council.'

(b) Sections 106.4.3 and 106.4.4 of said Code are deleted in their entirety and a new Section 106.4.3 is substituted therefore as follows:

106.4.3 Expiration. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of such permit shall not exceed one and one-half (1- 1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

(c) Section 106 of said Code is amended by adding a new Section 106.5.4, to provide as follows:

106.5.4 State License. All persons performing work within the City governed by this Code shall be licensed by the State of Texas, and shall submit to the City proof of insurance as required by the State or by statute.

(d) Said Code is amended by deleting Section 106.5 and Appendix B, entitled 'Permit Fee Schedule' as fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time.

(e) Section 109 of said Code is hereby amended to provide as follows:

109. Means of Appeal. Appeals of orders, decisions, or determinations made by the building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on the particular subject under consideration.

Sec. 14-67. Work done by homeowners.

A homeowner shall be permitted to do mechanical work on the dwelling he resides in, provided a permit is acquired for such work and the work is inspected and approved by the city.

Sec. 14-68. Work Restricted.

No mechanical work shall be performed by any person not the holder of a state license, if it is required by the state to have a license, and having complied with all requirements of the state for the performance of such work.

Sec. 14-69. Issuance of permits restricted.

A holder of a master mechanical installer's license who is employed as a master for a person shall take out mechanical permits only for that person, and shall supervise, direct and control the mechanical work for which the mechanical permit is obtained. A master who is engaged in the mechanical business for himself shall take out mechanical permits for his business only and no mechanical permit shall be taken out by any master that he does not supervise, direct and control the mechanical work for which the permit was obtained.

Sec. 14-70. Misuse of city registration.

No master mechanical installer shall assign or in any other way convey his registration, the use thereof, or any rights thereunder, to anyone by power of attorney or any other process, or become involved in any type of agreement, assignment or use whereby the master will not have supervision, direction and control of the mechanical work for which the mechanical permit is obtained by the master.

Sec. 14-71. Supervision of work.

All mechanical work performed within the city shall be done under the control, supervision, direction and responsibility of a master. Any other worker who performs the mechanical work under the supervision, control and responsibility of the master shall be an employee of the master.

Sec. 14-72. Payroll records.

For purposes of enforcing this article, the mechanical inspector, or his designated representative, may examine the payroll records for the preceding 12 months of the master, during normal business hours. Should the master fail or refuse to make a full, true and accurate disclosure of his payroll records, the mechanical inspector may, after written notification by certified mail, withhold the issuance of mechanical permits to that master until such time as there has been a full, true and accurate disclosure of the payroll records. Violation of this section will be subject to the penalty as provided for violation of any city ordinance.

Sec. 14-73. Suspension, withholding or revocation.

(a) When given a ten-day notice by registered or certified mail, and after a hearing before a board appointed by the city council, where the person notified may be represented by an attorney at law of his choice, the holder of a license or

certificate issued under the provisions of this article may have his license or certificate revoked or suspended by the city for any of the following reasons:

- (1) Habitual drunkenness or the use of narcotics.
- (2) Conviction of a crime involving moral turpitude.
- (3) Adjudication of insanity.
- (4) Fraud or misrepresentation in obtaining a registration or permit.
- (5) Violating on more than one occasion, either willfully or maliciously, or by reason of incompetence, any provision of this article or the Standard Mechanical Code or amendments thereto.
- (6) Conviction of defrauding any person from whom he has rendered or contracted to render service.
- (7) Securing permit for mechanical work not actually performed by the master or by licensed employees under his control, supervision and direction. This is intended to prevent a master from securing a permit for the purpose of evading the spirit and intent of this article by entering into any simulated scheme, transaction or device, whereby mechanical work will be done by persons who are not employees of the master, or employees of his employer.
- (8) Securing a permit under any pretext for any installation concerning which applicant has no valid contract. This is intended to prevent a master from securing a permit for the purpose of evading the spirit and intent of this article by simulated scheme, transaction or device, or performing mechanical work without a valid permit.

(b) The city may withhold the issuing or renewal of a license or registration certificate to an applicant by the same process used for revocation or suspension as described above.”

Section 2. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting Section 14-285 of Chapter 14 thereof and substituting therefore a new Section 14-285 of Chapter 14 to read as follows:

“Sec. 14-285. Adoption.

(a) With the passing of the ordinance from which this article derives, the 2005 edition of the National Electrical Code, NFPA 70, prepared by the National Fire Protection Association, Inc., will be adopted.

(b) In case of conflict between the provisions of the National Electrical Code, NFPA 70 and the provisions of this article, this article shall prevail.”

Section 3. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting Section 14-325 and Section 14-328 of Chapter 14 thereof and substituting therefore a new Section 14-325 and Section 14-328 of Chapter 14 to read as follows:

“ARTICLE V. HOUSING

* * *

14-325. International Residential Code adopted.

The *International Residential Code*, 2003 Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached to the ordinance from which this section derives and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary.

* * *

14-328. Amendments to the International Residential Code.

(a) Section R103 of said Code is hereby amended to provide as follows:

R103 Department of Building Safety. The enforcement of this code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City Council and may be removed without cause by City Council. The building official may appoint deputies to assist him/her, subject to City Council approval. Said deputies shall serve at the pleasure of the City Council and may be removed without cause by City Council.

(b) Section R105.5 of said Code is hereby amended to provide as follows:

R105.5 Expiration: No construction schedule. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1- 1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

(c) Section R105 of said Code is hereby amended by adding a new Section R105.10 to provide as follows:

R105.10 Liability Insurance. The person or entity that will actually perform the work or services covered by a permit shall provide to the City evidence of comprehensive general liability insurance, issued by a company licensed to do business in Texas, in the following amounts, for the duration of the permit, and shall furnish certificates of insurance to the City as evidence thereof. The certificates shall provide that the insurance shall not be canceled, reduced, or changed without 30 days advance notice to the City.

Comprehensive general liability insurance covering all risks associated with the work, with a minimum bodily injury limit of \$100,000, \$300,000 per occurrence, and a property damage limit of \$400,000, or a property damage limit equal to or exceeding the amount of the contract amount, whichever is greater.

(d) Section R108 of the Code is amended by adding to section R108.2 the following provision:

R108.2 Schedule of permit fees. Fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time.

(e) Section R108 of said Code is hereby amended by adding a new Section R108.6 to provide as follows:

R108.6 Work commencing before permit issuance. The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

(f) Section R112.1 of the Code is hereby deleted and new Section 112.1 is substituted therefor as follows:

112.1. Appeals. Appeals of orders, decisions, or determinations made by the City's building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on a particular subject under consideration.

(g) Section R112.3 of the Code is hereby deleted in its entirety.

(h) Section R113 of the Code is deleted in its entirety and the penalty provision of this Ordinance is substituted in its place.

(i) Sections R905.7 and R905.8 of the Code are deleted in their entirety and a new Section R905.7 is substituted therefor as follows:

R905.7 Wood Shingles and Shakes

(a) Allowed roof coverings of any structure regulated by this Code shall be as provided in this Section.

(b) Wood shingles and shakes are not allowed, shall not be allowed as an alternative material, and shall not be installed or used on any new construction or re-roofing of any structure.

Existing structures which have wood shingles or shakes may be repaired with fire-retardant shingles or shakes of a comparable grade; however, owners shall have the option of installing any allowed Class A, Class B, or Class C roofing material, over the existing wood shingles and shakes, provided that the existing roof structural system is adequate for modification. "Repair" means the replacement of damaged or destroyed shingles or shakes, provided the area repaired does not exceed twenty-five percent (25%) of the square foot surface area of the roof. A wood shingle or shake roof may not be replaced with wood shingles or shakes in increments which are undertaken as repairs.

(j) Appendices. The following Appendices contained in the Code is deleted its entirety:

Appendix E, Manufactured Housing Used As Dwellings

Appendices B through D contained in the Code are hereby adopted.”

Section 4. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting Section 14-405 and Section 14-406 of Chapter 14 thereof and substituting therefore a new Section 14-405 and Section 14-406 of Chapter 14 to read as follows:

“ARTICLE VI. PLUMBING AND GAS

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Sec. 14-405. International Plumbing Code adopted.

The *International Plumbing Code*, 2003 Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., and as amended herein, is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary.

Sec. 14-406. Amendments to the International Plumbing Code.

(a) Section 103 of said Code is hereby amended to provide as follows:

103 Department of Plumbing Inspection. The enforcement of this Code shall be under the administrative and operational control of the building

official. The building official shall be selected and serve in the position at the pleasure of the City Council and may be removed without cause by City Council. The building official may appoint deputies to assist him/her, subject to City Council approval. Said deputies shall serve at the pleasure of the City Council and may be removed without cause by the City Council.

(b) Section 104 of said Code is hereby amended to provide as follows:

104.7 Stop Work Orders. Whenever any work is being done contrary to the provisions of this Code, the Building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work. The building official shall issue all necessary notices or orders to ensure compliance with this code.

(c) Sections 106.5.3 and 106.5.4 of said Code are deleted in their entirety and a new Section 106.5.3 is substituted therefor as follows:

106.5.3 Expiration. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1- 1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

(d) Section 106.6 of said Code is hereby amended to provide as follows:

106.6 Fees. Fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time. The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

(e) Section 106 of said Code is amended by adding a new Section 106.6.4, which provides as follows:

106.6.4 State License. All persons performing work in the City governed by this Code shall be licensed by the State of Texas, and shall submit to the City proof of insurance as required by the State or by statute.

(f) Section 109 of said Code is hereby amended to provide as follows:

109. Means of Appeal. Appeals of orders, decisions, or determinations made by the building official in interpreting or applying this Code shall be to the City's Planning Commission, followed by City Council. The City Council

may obtain the assistance of persons who are qualified by experience and training on the particular subject under consideration.

(g) Section 108 of said Code is deleted in its entirety and the penalty provision of this Ordinance is substituted in its place.

(h) Section 605 of said Code is amended by deleting any and all references to "polybutylene pipe and tubing." Installation of polybutylene pipe and tubing, or use for repair, is prohibited.

(i) Section 702 of said Code is amended by deleting any and all references to concrete pipe and asbestos-cement pipe and tubing. Installation of concrete pipe or asbestos-cement pipe and tubing, or use for repair, is prohibited.

(j) Appendix A, Plumbing Permit Fee Schedule, contained in the Code is deleted its entirety and Appendices B-G contained in said Code are hereby adopted.”

Section 5. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2000. Each day of violation shall constitute a separate offense.

Section 6. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 15TH DAY OF OCTOBER 2007.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>ABSENT</u>

SECOND READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 5TH DAY OF NOVEMBER 2007.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

(signed) Gretchen Fagan
Gretchen Fagan, Mayor
City of Tomball

ATTEST:

(signed) Doris Speer
Doris Speer, City Secretary
City of Tomball