

## AMENDMENTS TO THE CODE OF ORDINANCES, HOUSTON, TEXAS:

### 1. Amend Section 1-1 to read as follows:

#### Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Houston, Texas," and may be so cited.

~~The City's *Construction Code*, and including the *Fire Code*, both constitutes a part of this Code and each is adopted herein by reference. The said two portions of this *Construction Code* are each is published by separate promulgation and they are is not set forth in this two-volume edition of the Code. Interested persons may contact the city secretary for purchase information.~~

### 2 Amend the definitions of "building official," "Construction Code," and "Fire Code," in Section 1-2 to read as follows:

~~*Building official* means the Director of Houston Public Works or such other person as the said director may designate to act as the chief *Construction Code* enforcement official of the city and the said official's designee. The term relates primarily to those Houston Public Works employees who are engaged in the administration and enforcement of the City of Houston *Construction Code* and related laws.~~

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~~*Construction Code* means the *City of Houston Construction Code*, as amended from time to time by the city council, which code consists of various texts setting forth requirements relating to building construction and safety, namely:~~

~~*City of Houston Building Code*, also known as the *Building Code*~~

~~*City of Houston Electrical Code*, also known as the *Electrical Code*~~

~~*City of Houston Energy Conservation Code*, also known as the *Energy Conservation Code*~~

~~*City of Houston Existing Building Code*, also known as the *Existing Building Code*~~

~~*City of Houston Fire Code*, also known as the *Fire Code*~~

~~*City of Houston Mechanical Code*, also known as the *Mechanical Code*~~

~~*City of Houston Plumbing Code*, also known as the *Plumbing Code*~~

~~*City of Houston Residential Code*, also known as the *Residential Code*~~

~~*City of Houston Swimming Pool and Spa Code*, also known as the *Swimming Pool and Spa Code*~~

~~Chapter 10, Article IX, also known as the *Houston Building Standards Code*, and *Houston Public Works Infrastructure Design Manual*, also known as the *Infrastructure Design Manual* or *IDM*.~~

~~In particular instances this Code may refer to individual portions/volumes of the *Construction Code*, such as the *Building Code*, the *Plumbing Code*, the *Electrical Code*, or the *Mechanical Code*, and any such specific reference shall be construed to mean the identified portion of the *Construction Code*. Although they do not constitute a part of the *Construction Code* for other purposes, the *International Residential Code* and the *International Energy Conservation Code*, both as adopted by state law and amended by the city, shall be considered to be included within the term "Construction Code."~~

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Fire Code means the City of Houston Fire Code of the City of Houston, as adopted and amended from time to time by the city council.

**3. Amend Section 1-2 further to add, in the appropriate alphabetical order positions, the following new definitions:**

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Building Code means the City of Houston Building Code, as adopted and amended by the city council.

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Electrical Code means the City of Houston Electrical Code as adopted and amended by the city council.

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Energy Conservation Code means the City of Houston Residential Energy Conservation Code or the City of Houston Commercial Energy Conservation Code, both as adopted and amended by the city council.

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Existing Building Code means the City of Houston Existing Building Code, as adopted and amended by the city council.

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Mechanical Code means the City of Houston Mechanical Code, as adopted and amended by the city council.

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Plumbing Code means the City of Houston Plumbing Code, as adopted and amended by the city council.

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Residential Code means the City of Houston Residential Code, as adopted and amended by the city council.

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Swimming Pool and Spa Code means the City of Houston Swimming Pool and Spa Code, as adopted and amended by the city council.

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**4. Amend the row for “Dry Cleaning Plant” in the table in Section 1-10(b)(8) to read as follows:**

Dry Cleaning Plant	21-166(a)(3); <i>Fire Code</i> § 105.6.1342
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**5. Amend Section 2-278(a)(6) to read as follows:**

(6) Administration and enforcement of the city's *Construction Code* and related laws.

6. **Replace the definition of the term “building inspection division” in Section 5-116 with the definition of the revised term “Building Code Enforcement,” which reads as follows:**

*Building Code Enforcement*~~–inspection division~~ means that division within the Houston Public Works that is assigned the responsibility of enforcement of the *Construction Code*.

7. **Replace the term “the building inspection division” in Sections 5-118(a), 5-121(b), and 5-136 with the revised term “Building Code Enforcement,” as shown below:**

**Sec. 5-118. General regulations.**

- (a) No skeet or shooting gallery shall be constructed or operated within the city unless the plans for such are submitted to ~~the building inspection division~~ Building Code Enforcement. The skeet club or shooting gallery shall comply with all provisions of the Construction Code. The approval of the chief of police shall be required as to the location of any skeet club or shooting gallery.

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**Sec. 5-121. Special shooting gallery permit.**

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- (b) The applicant shall advise ~~the building inspection division~~ Building Code Enforcement and the chief of police that he desires a special permit and shall designate the maximum caliber and the most powerful standard pistol cartridge proposed to be fired at the shooting gallery.

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**Sec. 5-136. Required.**

It shall be unlawful for a person to establish, maintain or operate, within the corporate limits of the city, a skeet club or shooting gallery without having first secured a license to do so from the chief of police. Such license shall not be issued by the chief of police unless the person applying therefor has secured a certificate of occupancy from ~~the building inspection division~~ Building Code Enforcement authorizing the occupancy of the premises for purposes of operating a skeet club or shooting gallery. Provided, however, this article governing the construction, licensing, use and occupancy of skeet clubs and shooting galleries shall not be applicable to any such installations which are constructed, operated and supervised in accordance with U. S. Army or Reserve Officers Training Corps regulations by school districts, colleges or universities.

8. **Amend Section 5-173(b) to read as follows:**

- (b) Any signage required by this section shall be in conformance with the *Sign Code* (~~Chapter 46 of the City of Houston *Building Code*~~).

9. **Amend Section 9-801(c)(2) to read as follows:**

- (2) At the time a stop work order is issued, the person performing the work and the permit holder shall be given notice of a right to a hearing on the matter pursuant to

section 9-757 of this article. Any stop work order that has been issued shall remain in effect pending any hearing that has been requested unless the stop work order is withdrawn by the director.

**10. Amend Section 10-1(b) to read as follows:**

- (b) The *Construction Code* was formerly known as the *Building Code*. Any reference in city ordinances, contracts, or other documents to the *Building Code* shall be construed to mean the document now known as the *Construction Code*, unless the reference is clearly intended by its context to mean that document called the ~~City of Houston~~ *Building Code*, which is now one of several documents that constitute the *Construction Code*.

**11. Amend Section 10-3(a)(3) to read as follows:**

- (3) The interior remodeling of a building, provided that the remodeling will not change the building's "use and occupancy classification" within the meaning of Chapter 3 of the ~~City of Houston~~ *Building Code*.

**12. Amend Section 10-155(1) to read as follows:**

- (1) An owner of an MFRB violates this article if the MFRB does not comply with:
- a. All applicable provisions of the *Fire Code*;
  - b. Sections ~~LD102~~ through ~~LD108~~ of ~~appendix L~~ Appendix D (Life-Safety Requirements for Existing Buildings) of the *Existing Building Code* ~~(which provisions are part of the Building Code's "Life Safety Appendix")~~;
  - c. Sections 10-211 through 10-~~218~~ 245 of this Code (which provisions pertain to the numbering of buildings);
  - d. The provisions of chapter 41 of this Code (which provisions pertain to street names and site addresses);
  - ~~ed.~~ The provisions of ~~C~~chapter 43 of this Code (which provisions pertain to swimming pools); and
  - fe. Sections 92.153 through 92.162 of the Texas Property Code (which provisions pertain to security devices).

**13. Amend Section 10-216(e) to read as follows:**

- (e) Provisions of this section shall not be construed to authorize the erection or maintenance of any sign or marker in contravention of any applicable provisions of the Sign Code ~~chapter 46 of the Building Code~~.

**14. Amend Section 10-256 to read as follows:**

**Sec. 10-256. Conformance to uniform codes.**

Any industrialized building or industrialized housing erected or installed in the city shall be constructed in accordance with the requirements, ~~and~~ standards and rules as

~~determined by the Texas Industrialized Building Code Council, pursuant to Chapter 1202 of the Texas Occupations Code of the Uniform *Building Code*, the Uniform *Plumbing Code* and the Uniform *Mechanical Code* as published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials and as those codes existed on January 1, 1985; provided, however, this provision shall only be applicable to the extent that the *Construction Code* is not enforceable in regard to the construction of such structures due to the provisions of Article 5221f-1, Texas Revised Civil Statutes.~~

**15. Amend Items (4) and (7) of Section 10-298 to read as follows:**

(4) Any building of wooden frame construction wherein any cafe or restaurant business is operated, unless the walls and ceilings of that portion of the building in which the cafe or restaurant is operated are separated from the remainder of the building by one-hour fire-resistive materials ~~as defined in the *Building Code*.~~

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(7) Any lodging house being operated in a two-story building of wooden frame construction; provided, however, that no such lodging house shall constitute a fire hazard if:

- a. The ceiling of the first floor is separated from the floor of the second by one-hour fire-resistive materials ~~as defined in the *Building Code*~~; and
- b. The walls between the rooms are insulated by one-hour fire-resistive materials ~~as defined in the *Building Code*~~ that extend from ceiling to floor; and
- c. The stairways, including the doors, platforms, landings, railings and corridors or passageways constructed in connection therewith, in all ways conform to the provisions of the *Building Code*; and
- d. The floors, walls, and frame of the house are in safe and sound structural condition; and
- e. The building does not otherwise constitute a fire hazard as defined herein.

**16. Amend the definition of “building standards official” in Section 10-317 to read as follows:**

*Building standards official* means the neighborhood protection official or the building official or the fire code official (as defined in the *Fire Code*), according to their respective enforcement responsibilities as provided in this article or in the *Fire Code*.

**17. Amend Section 10-363(e)(5) to read as follows:**

(5) Provide each non-vacant dwelling unit, congregate living facility, and sleeping unit with means of egress as required by the *Construction Code* in effect at the time of construction and as required by Appendix D ~~to the *Existing Building Code*~~; and

**18. Amend the Title of Article XVII of Chapter 10 to read as follows:**

**ARTICLE XVII. ABATEMENT OF OFF-PREMISE SIGNS CONSTRUCTED OR MAINTAINED IN VIOLATION OF THE SIGN CODE SECTION 4612(b) OF THE CITY OF HOUSTON BUILDING CODE**

**19. Amend Section 10-651 by deleting the definition of the term “Sign Code.”**

~~*Sign Code* means Chapter 46 of that volume of the Construction Code known as the City of Houston Building Code~~

**20. Amend the definition of “member of the executive branch” in Section 18-71 by replacing the term “Fire Board of Appeals” with the revised term “Fire Code Board of Appeals,” as shown below:**

~~*Member of the executive branch* means the mayor, city controller, mayor-elect, city controller-elect, candidate for mayor or controller, or member of the Archaeological and Historical Commission, Airport Land Use Regulations Board of Adjustment, Automotive Board, Board of Public Trusts, Boiler Code Review and Licensing Board, Building and Standards Commission, Civil Service Commission, Electrical Board, Fire Code Board of Appeals, General Appeals Board, Helicopter Facilities Licensing and Appeals Board, *Mechanical Code* Review Board, Municipal Board on Sign Control, Planning Commission, Plumbing Code Review Board, Tower Permit Commission, or Wastewater Capacity Reservation Review Board.~~

**21. Amend Section 19-23(a) to read as follows:**

(a) In addition to the remedies provided in section 19-91 of this Code, whenever the city engineer finds that there are grounds for revocation of a floodplain development permit, he shall give written notice to the permittee by personal service or by certified mail, return receipt requested, addressed to the applicant at the address set forth in the floodplain development permit application. That notice may require that any work on the property currently underway is required to stop immediately, that a stop work order is being issued, and shall set forth:

- (1) The specific grounds upon which the floodplain development permit in question may be revoked;
- (2) The fact that there will be a hearing before the board in which the city will seek the revocation of the floodplain development permit;
- (3) The date, time, and place of such hearing; and
- (4) The fact that the permittee may appear in person or be represented by an attorney.

**22. Amend Section 19-91(c)(2) to read as follows:**

(2) At the time a stop work order is issued, the person performing the work and the permittee shall be given notice of a right to a hearing on the matter pursuant to Section 117.2 of the Construction Code for permits authorized by that Code. Upon request, such a hearing shall be held within three business days unless the

permittee or person who was performing the work requests an extension of time. Any stop work order that has been issued shall remain in effect pending any hearing that has been requested unless the stop work order is withdrawn by the city engineer.

**23. Amend Section 28-37 to read as follows:**

**Sec. 28-37. Attention-getting devices.**

- (a) As used in this section, attention-getting devices shall mean devices erected, placed or maintained outdoors so as to attract attention to any commercial business, or any goods, products or services available on the premises of a commercial business, including but not limited to the following devices: banners; cut out figures; discs; festooning, including tinsel, strings of ribbons, and pinwheels; inflatable objects, including balloons; non-governmental flags; pennants; propellers; steam- or smoke-producing devices; streamers; whirligigs; wind devices; blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating, search, flood or spot lights; or similar devices, any of which are located or employed in connection with the conduct of a commercial business. Attention-getting devices shall not include any structure or device that is permitted under the ~~Houston Sign Code, Chapter 46 of the Building Code.~~
- (b) It shall be unlawful for any person to place, erect, maintain, or display any attention-getting device on any private or public property within the city. No attention-getting device shall be eligible for a permit under the ~~Houston Sign Code.~~
- (c) Enforcement of this section shall be the duty of the sign administration division of the Houston Public Works or any law enforcement officer.
- (d) Any person who shall violate any provision of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$300.00 and not more than \$500.00 for each violation. Each day in which any violation shall occur shall constitute a separate offense.

**24. Amend Items (2) and (3) of Section 28-43(a) to read as follows:**

- (2) *Political advertising material* means any advertising material relating to any election which might, with reasonable foreseeability, be placed, posted or erected within the city by any person in violation of sections 28-38 and 28-39 of this Code or ~~of the Sign Code Chapter 46 of the city's Building Code;~~ and
- (3) *The warning* means the following words: "Warning: Placement, posting or erection of this material within the City of Houston is regulated by sections 28-38 and 28-39 of ~~this Code the city's Code of Ordinances and the Sign Code Chapter 46 of the city's Building Code;~~ violation thereof is punishable by a fine of up to five hundred dollars (\$500.00)."

**25. Amend Section 28-130(a) to read as follows:**

- (a) Notwithstanding ~~the Sign Code chapter 46 of the Building code~~ or any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the owner or operator of any enterprise or any other person to erect, construct, or maintain any

sign for the enterprise other than one primary sign and one secondary sign, as provided herein.

**26. Amend Section 28-202(b) to read as follows:**

- (b) All determinations required under this section shall be based upon facts in existence on the day that the application for a building permit to construct, alter, or remodel the hotel is duly filed in the office of the building official with all plans, drawings, and other documents required for its consideration and processing under the terms of the ~~h~~Building eCode. In the event that any applicant for a building permit to construct, alter, or remodel a hotel fails to initiate or prosecute the work such that the building permit expires under the terms of the ~~h~~Building eCode, then a new building permit shall be required, and its issuance shall be subject to facts in existence at the time that the application is file for the new permit.

**27. Amend the definitions of the terms “enterprise” and “highly toxic” in Section 28-222 to read as follows:**

*Enterprise* means a use or activity on, or of, a tract of land or within a building or structure, in whole or in part, that includes ~~storage of, inside and also includes~~ outside storage or use of hazardous materials exceeding the ~~M~~maximum Allowabled Quantity ~~ies~~ limits (MAQs) per control area that constitutes a Group H-1, H-2 or H-3 occupancy as described in ~~s~~Section 307 of that volume of the Construction Code known as the City of Houston Building Code. The term also includes any Group H-4 occupancy, in whole or in part, that includes storage (both interior and exterior) of hazardous materials exceeding the MAQs per control area as described in *Building Code* ~~s~~Section 307 if any highly toxic material is manufactured, processed, generated, stored or used. Otherwise, Group H-4 occupancies are not included. The term also does not include:

- (1) Any public water or wastewater treatment facility that is being operated under regulations promulgated by state or federal agencies, including but not limited to the United States Environmental Protection Agency and the Texas Commission on Environmental Quality;
- (2) Areas or spaces up to 500 square feet each in research labs operated under the authority of a hospital, college, or university, and classified as H-2, H-3 or H-4, with an aggregate maximum area of ten percent on each floor; or
- (3) Any area or space containing fuel storage for generators, fire pumps, above or underground fuel storage associated with vehicle motor fuel-dispensing facilities.

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*Highly toxic material* means any substance ~~se~~ defined as such in the *Fire Code*.

**28. Amend the definition of the term “scenic area” in Section 28-521 to read as follows:**

*Scenic area* means those areas of the city so designated by city council, as listed in the Sign Code chapter 46 of the building code, except that, for purposes of this article,

any designated scenic area that has one or more high mast light structures within its boundaries shall not be deemed a scenic area.

**29. Amend Section 29-15(a)(1) to read as follows:**

- (1) In a manufactured home park which the operator is licensed to operate pursuant to article III of this chapter;

**30. Amend the last sentence of Section 29-15(a) to read as follows:**

Provided that no manufactured home may be situated or permitted to remain in any place in violation of any valid and applicable deed restriction or covenant running with the land, or on any site within Districts of Limitations One and Two as those districts are ~~defined~~ established in the *Fire Code*.

**31. Amend Section 29-25(c) to read as follows:**

- (c) The burden of proof at such hearing shall be upon the building official. If the general appeals board determines that grounds for revocation exist, it shall order the hardship permit revoked by written decision. A copy thereof shall be furnished to the hardship permittee, and appeal thereof may be made to the city council by complying with the appeal procedure in the *Building Code*.

**32. Amend Section 29-37(b)(2) to read as follows:**

- (2) A permit has been obtained for reconnection of any electrical utilities and the building official has found, upon inspection, that the exterior wiring service on the manufactured home is in such condition that it may be safely connected to the electrical utility services. The fee specified in the Construction ~~Building Code~~ for a reconnection fee shall be imposed for the issuance of a permit under this item.

**33. Amend Section 29-74 to read as follows:**

**Sec. 29-74. Fee to be paid.**

All applications shall be accompanied by the deposit of the applicable fees as specified in the Construction ~~Building Code~~. The fees set out in chapters 41 and 42 of ~~the this Code of Ordinances~~ shall also be applicable to plans for manufactured home parks as though a manufactured home park were a subdivision.

**34. Amend Section 29-109 to read as follows:**

**Sec. 29-109. Gas distribution system; general requirements.**

Gas equipment and installation within a manufactured home park shall be designed and constructed in accordance with the ~~City of Houston Plumbing Code~~, the appropriate provisions of the ~~City of Houston Fire Code~~, and the standards adopted by reference in those codes.

**35. Amend Subsections (b) and (e) of Section 29-124 to read as follows:**

- (b) Portable fire extinguishers rated for Classes A, B and C shall be kept in service buildings and at other locations conveniently and readily accessible for use by all occupants and shall be maintained in good operating condition. Their capacity shall not be less than the underwriters laboratory (U.L.) rating of 2A 10BC. However, standpipes may be provided as an alternative to these fire extinguishers when approved by the fire marshal pursuant to the provisions of the Fire Code.

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- (e) Storage and handling of flammable liquids. In parks in which gasoline, oil, paints, or other flammable liquids are stored and/or dispensed, their handling and storage shall comply with the city Fire Code.

**36. Amend the last sentence of Section 29-148(a) to read as follows:**

The applicant for authorization for connection of either manufactured homes or recreational vehicles, or both, to electricity shall submit with the application the annual fee for such authorization as set out in section 29-160 of this Code, and shall pay all applicable permit fees set out in the Construction Code ~~building code~~.

**37. Amend Section 29-160(a) to read as follows:**

- (a) In addition to the fees set forth in this section, all other applicable inspection and permit fees as set forth in this Code and in the ~~Building~~ Construction Code must be tendered to the building official with the application.

**38. Amend Section 32-231(b)(5) to read as follows:**

- (5) The vendor shall not load or unload the mobile food unit or any food items while the mobile food unit or a vehicle transporting the mobile food unit is parked on a roadway. In no case shall a mobile food unit be positioned on a sidewalk so as to occupy more than 40 percent of the width of that sidewalk. In addition, all mobile food units shall comply with clearances required from structures to utility lines as provided the Construction Code ~~in a nationally recognized building code~~.

**39. Amend Section 33-236(j) to read as follows:**

- (j) No person shall alter, rehabilitate, restore, construct, relocate or demolish any landmark, protected landmark, or any building, structure or object in an historic district or archaeological site, or excavate any archaeological site, without complying with the applicable provisions of this article. It is a defense to prosecution under this section that the Director of Houston Public Works or a deputy director or an assistant director having supervisory responsibilities over the issuance of building permits has determined (1) that the work to be performed is necessary to correct conditions that are in violation of the life safety requirements for existing buildings as set forth in ~~Chapter 34 and Appendix L~~ of the Existing Building Code, including Appendix D thereto; (2) that the work to be performed is the only means for achieving compliance with the life safety requirements; and (3) that, based upon the nature of the life safety violations and the risks associated

with their continuation, the provisions of this article should be waived to the extent of the life safety requirements.

**40. Amend Section 40-7(b) to read as follows:**

- (b) *Encroachment permit required.* A subdivision identification marker installed after December 31, 2008, in the median of a public street right-of-way or in unimproved excess public street right-of-way of a street within, abutting or adjacent to the subdivision must have an encroachment permit issued by the city engineer's office and shall not be subject to the requirements of the ~~Houston Sign Code (Chapter 46 of the City of Houston Building Code)~~.

**41. Amend Section 40-10.1(b)(3) to read as follows:**

- (3) *Canopy* shall mean an awning as defined by the ~~city's~~ Building Code.

**42. Amend Section 40-10.1(d)(5)m to read as follows:**

- m. The licensee shall not install, erect or maintain any signs not permitted by the Sign Code ~~city sign code (chapter 46 of the City of Houston Building Code)~~.

**43. Amend Section 40-263(10) to read as follows:**

- (10) A food vendor applicant shall state whether the mobile food unit will be fueled by liquefied petroleum gas. If so, the applicant shall provide proof that he holds a current and valid permit for the use of liquefied petroleum gas on the mobile unit issued pursuant to ~~article 82~~ Chapter 61 of the *Fire Code*.

**44. Amend Section 40-483(j) to read as follows:**

- (j) The applicant may appeal the denial or revocation of a permit by delivering a written request for an appeal to the director not more than fourteen days after the date the written notice of denial or revocation. Appeals of denial or revocation of a permit will be handled pursuant to the procedures set forth in ~~s~~ Section 117 of the ~~city's~~ Building Code.

**45. Amend Subsections (b) and (c) of Section 41-24 to read as follows:**

- (b) After the recordation of a subdivision plat, the building official may change a site address if a property owner or the property owner's agent submits to the building official a written request and payment for each site address to be changed of the fee established in ~~s~~ Section 118.1.13-117.1.14 of the *Building Code* for which the fee amount is stated in the city fee schedule.
- (c) For property that is not located in a recorded subdivision plat, the building official may change a site address if a property owner or the property owner's agent submits to the building official a written request and payment for each site address to be changed of the fee established in ~~s~~ Section 118.1.13-117.1.14 of the *Building Code* for which the fee amount is stated in the city fee schedule.

**46. Amend Section 42-145(a)(5) to read as follows:**

- (5) Any parking space in a subdivision containing a shared driveway shall provide sufficient space for turning movements as depicted on the drawings of the space requirements for off street parking referenced in Section 3112.4.5 of the Construction Code;

**47. Amend Section 42-234(b) to read as follows:**

- (b) Parking space arrangements, sizes of spaces and driveway openings shall be in conformance with the ~~Building e~~Code. A parking space shall not be in tandem unless the tandem parking space is reserved for use by occupants of the same residential unit to which the space is in tandem.

**48. Amend the definitions of the terms “pool,” “residential pool or spa,” and “spa” in Section 43-2 to read as follows:**

*Pool* means any man-made permanently installed or non-portable structure, basin, chamber, or tank containing or designed to contain a body of water to be used for human swimming, diving, aquatic sports, or other aquatic activity, including any pool that is categorized as a Class A, Class B, or Class C or Class D public pool pursuant to Section 265.182(9976) of Title 25 of the Texas Administrative Code, regardless of whether a fee is charged for use, and regardless of whether its use has been abandoned or discontinued; provided, however, that this term does not include a residential pool or spa or a pool that has been abated.

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*Residential pool or spa* means a pool or spa that is located on private property under the control of the property owner or the owner’s tenant and that is intended for use by not more than two resident families and their guests, including a pool or a spa serving only a single-family home or duplex. ~~any man-made structure, basin, chamber, or tank containing or designed to contain a body of water to be used for human swimming, diving, aquatic sports, or other aquatic activity and that is located at a single-family home or a duplex.~~

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*Spa* means a body of water intended for the immersion of persons in either hot or cold water, circulated in a closed system, and not intended to be drained and refilled after each use. A spa can include a filter, a heater, a pump, a blower and water sanitizing equipment. The term includes a swim spa or exercise spa, including any spa that is categorized as a Class A, Class B or Class C spa pursuant to Section 265.182 (94) of Title 25 of the Texas Administrative Code. ~~a constructed permanent or portable structure that contains or is designed to contain hot or cold water and (i) is two feet or more in depth, (ii) has a surface area of 250 square feet or less or a volume of 3,250 gallons or less, (iii) is intended to be used for bathing or other recreational uses by human beings, (iv) is not drained and refilled after each use, and (v) includes such elements as hydrojet circulation, mineral baths, air induction bubbles, or any combination thereof; regardless of whether its use has been abandoned or discontinued; provided, however, that this term does not include a residential pool or spa or a spa that has been abated.~~

**49. Amend Section 43-6 to read as follows:**

**Sec. 43-6. ~~Facilities~~ Aquatic structures: minimum standards.**

- (a) Except as provided in subsection (b) of this section, the City adopts minimum standards for ~~facilities~~ aquatic structures that are identical to or stricter than those pool safety standards contained in the following state and federal laws, all of which are incorporated herein:
  - (1) The VGBA;
  - (2) Chapter 757 of the Texas Health and Safety Code, as it relates to facilities; and
  - (3) Subchapters L and M of Chapter 265 of Title 25 of the Texas Administrative Code, as it relates to facilities; and
  - (4) That volume of the Construction Code known as the *Swimming Pool and Spa Code*.
- (b) The provisions of Section ~~265.208~~ 265.211 of Title 25 of the Texas Administrative Code shall not apply to enforcement of this chapter.
- (c) The operator of an facility ~~aquatic structure~~ shall maintain the ~~facility~~ aquatic structure in accordance with the pool safety standards adopted by the City pursuant to subsection (a) of this section. Any inconsistency between the requirements of this article and subsection (a) shall be resolved in favor of the more restrictive requirement.

**50. Amend Subsections (g) and (h) of Section 43-9 to read as follows:**

- (g) The health officer shall inspect an aquatic structure that has been constructed, remodeled or altered prior to its operation to determine compliance with the approved plans and specifications and with all other applicable requirements. A preoperational inspection fee will be assessed in conjunction with the inspection of an facility ~~aquatic structure~~. An aquatic structure that fails to pass this inspection may not be operated or used.
- (h) No permit shall be issued to or renewed for any ~~facility~~ aquatic structure for which outstanding fees are owed to the city.

**51. Amend Subsections (b) and (c) of Section 43-33 to read as follows:**

- (b) The operator of an facility ~~aquatic structure~~ that is regulated by Chapter 757 of the Texas Health and Safety Code shall at all times maintain an enclosure that complies with those provisions of that chapter adopted by reference in section 43-6(a) of this Code, and the city may remedy violations of this subsection in accordance with the provisions of Section 214.101 of the Local Government Code, including the placement of a lien against the property to recover expenses incurred pursuant to remediation.
- (c) The operator of an facility ~~aquatic structure~~ that is regulated by Subchapter L of Chapter 265 of Title 25 of the Texas Administrative Code shall at all times maintain

upon such property an enclosure that complies with the requirements of Section 265.2030 of that subchapter adopted by reference in section 43-6(a) of this Code.

**52. Amend Sections 43-35, 43-36, and 43-37 to read as follows:**

**Sec. 43-35. Enforcement and closures.**

- (a) The health officer is authorized to issue citations charging the violation of any of the provisions of this chapter, the *Swimming Pool and Spa Code*, and, to the extent authorized or permitted by law, any applicable state laws, rules or regulations regarding pool safety. In addition, the health officer may order an ~~facility~~-aquatic structure closed if the health officer determines:
- (1) That it is being operated without a valid permit; or
  - (2) That the continued operation of the aquatic structure will constitute a hazard to the health or safety of persons using the ~~facility~~-aquatic structure or those in close proximity to the ~~facility~~-aquatic structure.
- (b) Written notice of a closure order shall be provided to the operator of an aquatic structure. The notice shall:
- (1) Set forth the specific conditions at the aquatic structure that constitute a hazard to public health; or
  - (2) Set forth the specific conditions at the aquatic structure that are in violation of this chapter, the *Swimming Pool and Spa Code*, federal or state laws, or rules or regulations regarding pool safety.
  - (3) Be sent by personal hand delivery, certified mail, or private delivery service, return receipt requested. If there is documented proof that these methods are not successful, the written notice of a closure order may be sent to the operator by email.
- ~~(b)~~(c) Upon closure of an ~~facility~~-aquatic structure pursuant to this section, the person in charge of the ~~facility~~-aquatic structure shall immediately:
- (1) Properly post and maintain signs at all entrances to the ~~facility~~-aquatic structure that state: "CLOSED UNTIL FURTHER NOTICE"; and
  - (2) Lock all doorways and gates that form a part of the ~~facility~~-aquatic structure enclosure, so that the ~~facility~~-aquatic structure is only accessible to maintenance or authorized personnel for repairs.
- Signs required to be posted under this section shall be a minimum size of 8½ inches by 11 inches. The lettering shall be of a contrasting color to the background and not less than one inch in height. Signs shall be positioned so that they are readily visible to a person seeking entry to the ~~facility~~-aquatic structure.
- ~~(e)~~(d) If the person in charge of the ~~facility~~-aquatic structure is absent or fails or refuses to comply with the requirements of subsection (b), the health officer may post signs and secure the premises in accordance with this section.
- ~~(e)~~(e) A person commits an offense under this section if the person:
- (1) Removes, defaces, alters, covers or renders unreadable a closure sign posted by the health officer; or

- (2) Uses an facility-aquatic structure subject to a closure order for swimming, diving or bathing; or
  - (3) Is a person in charge of an facility-aquatic structure subject to a closure order and knowingly allows persons to use the facility-aquatic structure for swimming, diving or bathing; or
  - (4) Is a person in charge of an facility-aquatic structure subject to a closure order and fails to comply with the requirements of this section.
- (f) The health officer shall notify the operator of a timeframe for reinspection after the health officer issues the closure order. If, upon reinspection any time before the end of the timeframe provided, it is found that the violations have been corrected, the health officer will lift the closure order. If the violations have not been corrected within the timeframe, and the operator has not received an approved extension, the closure order shall remain in place and the health officer may issue additional citations.
- (e)(g) An operator may appeal a closure order within ~~three~~ 10 days after the issuance receipt of notice of the closure order by filing a written statement with the health officer setting forth the reasons why the closure order should be rescinded. The filing of an appeal does not ~~stay~~ postpone or halt the closure order.
- (f) ~~A facility closed by the health officer shall not resume operation until a reinspection by the health officer establishes that the facility is in compliance with this chapter, the Swimming Pool and Spa Code, and all applicable state or federal laws and rules and regulations regarding pool safety.~~
- (h) If an appeal is not timely filed, the closure order shall remain in place pending the results of the reinspection scheduled pursuant to subsection (f) of this section. If the appeal is timely filed, a hearing shall be scheduled with written notice provided to the operator by personal hand delivery, certified mail, or private delivery service within 5 days after receipt of the appeal. If there is documented proof that these methods are not successful, the written notice may be sent to the operator by email. The notice shall set forth:
- (1) That a hearing will be held before a hearing officer;
  - (2) The date, time, and place of the hearing; and
  - (3) That the operator may appear in person or virtually, may be represented by counsel, and may present testimony and cross-examine all witnesses. The hearing shall be held not later than 10 days after receipt of the appeal.
- (i) All hearings shall be conducted by a person designated by the director of the department, who shall be referred to as the hearing officer. The director of the department shall not designate any person to perform the duties of hearing officer under this section who has participated in the inspection of the aquatic structure, or has prior knowledge of the allegations or circumstances discovered in the inspection or inspections, except that the person designated as hearing officer may, prior to the hearing, receive a copy of the closure order given to the operator.
- (j) All hearings shall be conducted under rules consistent with the informal nature of the proceedings; provided, however, the following rules shall apply:
- (1) Each party shall have the right to representation by a licensed attorney, although an attorney is not required.

- (2) Each party may present witnesses on his own behalf.
  - (3) Each party has the right to cross-examine all witnesses.
  - (4) The hearing officer may consider only the evidence presented at the hearing in rendering the order.
- (k) If the operator fails to appear at the hearing at the time, place, and date specified, the health officer shall present sufficient evidence to establish a prima facie case showing violation of this chapter or the *Swimming Pool and Spa Code*, or conditions constituting a hazard to public health that formed the basis of the closure order.
- (l) If the hearing officer determines that the aquatic structure was operated in violation of this chapter, the *Swimming Pool and Spa Code*, federal or state laws, rules or regulations regarding pool safety, or constituted a hazard to public health, the hearing officer shall make written findings of fact and shall affirm the closure order. If the hearing officer finds that the public interest will be adequately protected by a warning or other penalties authorized under this chapter, he may rescind the closure order and impose such penalties. A copy of the findings and order of the hearing officer shall be sent by personal hand delivery, certified mail, or private delivery service, return receipt requested, to the operator. If there is documented proof that these methods are not successful, the findings and order may be sent to the operator by email.

**Sec. 43-36. Permit suspension.**

- (a) The health officer may, upon notice to the permit holder, suspend a permit if the operator of an facility aquatic structure does not comply with the requirements of this chapter or the *Swimming Pool and Spa Code*, or if the operation of the facility aquatic structure otherwise constitutes a hazard to public health. Suspension is effective upon service of the notice required by subsection (b) below. Upon issuance of a permit suspension, active pool operations shall immediately cease, and the permit shall be removed from the facility aquatic structure by the health officer and retained at the department until the suspension has terminated.
- (b) Written notice of a permit suspension shall be provided to the operator of an facility aquatic structure by personal hand delivery or, certified mail, or private delivery service, return receipt requested. If there is documented proof that these methods are not successful, the written notice may be sent to the operator by email. The notice shall set forth:
- (1) The specific conditions at the facility aquatic structure that are in violation of this chapter, the *Swimming Pool and Spa Code*, in violation of or federal or state laws, rules or regulations regarding pool safety, or that constitute a hazard to public health;
  - (2) That a hearing will be held before a hearing officer;
  - (3) The date, time and place of the hearing; and
  - (4) That the operator may appear in person or virtually, may be represented by counsel, and may present testimony and cross-examine all witnesses. The hearing shall be held not later than ten days after the date the permit is suspended.

- (c) ~~A permit suspension hearing under this section shall be held in accordance with the procedures set forth in section 43-35 of this Code. All hearings shall be conducted by a person designated by the director, who shall be referred to as the hearing officer. The director shall not designate any person to perform the duties of hearing officer under this section who has participated in the inspection of the facility, or has prior knowledge of the allegations or circumstances discovered in the inspection or inspections, except that the person designated as hearing officer may, prior to the hearing, receive a copy of the notice given to the operator.~~
- (d) ~~All hearings shall be conducted under rules consistent with the informal nature of the proceedings; provided, however, the following rules shall apply:~~
- ~~(1) Each party shall have the right to representation by a licensed attorney, although an attorney is not required.~~
  - ~~(2) Each party may present witnesses on his own behalf.~~
  - ~~(3) Each party has the right to cross-examine all witnesses.~~
  - ~~(4) The hearing officer may consider only the evidence presented at the hearing in rendering the order.~~
- ~~(e)~~(d) If the operator fails to appear at the hearing at the time, place, and date specified, the health officer shall present sufficient evidence to establish a prima facie case showing violation of this chapter or the *Swimming Pool and Spa Code*, or conditions constituting a hazard to public health that formed the basis of the suspension of the permit.
- ~~(f)~~(e) If the hearing officer determines that the facility-aquatic structure was operated in violation of this chapter or the *Swimming Pool and Spa Code*, or constituted a hazard to public health, the hearing officer shall make written findings of fact and shall affirm the permit suspension until all violations of this chapter are corrected and any conditions constituting a hazard to public health are eliminated. If the hearing officer finds that the public interest will be adequately protected by a warning or other penalties authorized under this chapter, he may order the permit to be reinstated and impose such penalties. A copy of the findings and order of the hearing officer shall be sent by personal hand delivery, certified mail, or private delivery service, return receipt requested, to the operator. If there is documented proof that these methods are not successful, the findings and order may be sent to the operator by email.
- ~~(g)~~(f) Whenever the reason for a suspension no longer exists, the operator shall notify the health officer that the conditions under which the permit was suspended have been corrected and request a reinspection. The reinspection shall be conducted as soon as possible after the request is received and, in any event, no later than three regular working days after the receipt of the request.

**Sec. 43-37. Permit revocation.**

- (a) A permit may be revoked for up to 180 days if:
- (1) The person in charge or his agents or employees fail or refuse to permit an inspection of the facility-aquatic structure by a health officer; or
  - (2) The department has found three or more violations of the applicable portions of this chapter, the *Swimming Pool and Spa Code*, or of federal or

state laws, rules or regulations regarding pool safety within the preceding twelve-month period.

- (b) Prior to the revocation of a permit, written notice shall be provided to the operator by personal hand delivery ~~or by~~ certified mail, or private delivery service, return receipt requested. If there is documented proof that these methods are not successful, the written notice may be sent to the operator by email. The notice shall set forth:
  - (1) The grounds on which the city will seek revocation of the permit, including the specific violations of this chapter, the *Swimming Pool and Spa Code*, or ~~of~~ federal or state laws regulating pool safety on which the city will rely in seeking revocation of the permit;
  - (2) That a hearing will be held before a hearing officer;
  - (3) The date, time and location of the hearing; and
  - (4) That the operator may appear in person or virtually, may be represented by counsel and may present testimony and cross-examine all witnesses. The hearing shall be held not later than ten days after the date the permit revocation notice is received.
- (c) A permit revocation hearing under this section shall be held in accordance with the procedures set forth in section 43-356 of this Code.
- (d) If the hearing officer determines that there are grounds for revocation of the permit, the hearing officer shall make written findings of fact and shall order the revocation of the permit for a period of not more than 180 days. A copy of the findings and order of the hearing officer shall be sent by personal hand delivery, certified mail, or private delivery service, return receipt requested, to the operator. If there is documented proof that these methods are not successful, the findings and order may be sent to the operator by email.
- (e) All operation of an ~~facility-aquatic structure~~ shall cease immediately upon receipt of service of written notice that the permit for that ~~facility-aquatic structure~~ has been revoked pursuant to subsection (d), and the health officer shall physically remove the permit from the premises.
- (f) Reinstatement of a permit that has been revoked shall require the operator to resubmit an application and payment of a repay the permit fee as if it were an initial application. No new permit application shall be considered for an ~~facility-aquatic structure~~ where the hearing officer has revoked the permit ~~has been revoked~~ until the expiration of the revocation period.

**53. Amend Section 47-14(d)(3) to read as follows:**

- (3) In the case of sewer service, the applicant has paid the prescribed ~~p~~Plumbing ~~e~~Code inspection fees and the director has received written evidence from the appropriate plumbing official that the plumbing system at the premises to be served has been inspected by the city and is in compliance with the ~~city's~~ ~~p~~Plumbing ~~e~~Code; and

**54. Amend the second-to-last sentence of Section 47-14(d) to read as follows:**

Notwithstanding the foregoing, in the case of a plumbing system which is not in existence at the time the application is considered for approval, the director may approve such application upon the express condition that the plumbing system at the premises to be served be inspected by the city and found to be in compliance with the ~~city's~~ Plumbing Code before any connection to city water or sewer facilities is made.

**55. Amend the definition of the term "industrial waste" in Section 47-187(d) to read as follows:**

*Industrial waste.* Any waterborne solid, liquid or gaseous waste resulting from any production, industrial, manufacturing, service, or food processing operation or from the development, recovery, or processing of any natural resource including waste that is required to be pretreated by this article or the ~~city's~~ Plumbing Code. Included in this definition is any wastewater stream subject to pretreatment standards or requirements at 40 C.F.R. Parts 405—471.

**56. Amend Section 47-513(a) to read as follows:**

(a) Commercial, institutional, and industrial facilities, including, but not limited to, restaurants, cafeterias, bars, hotels and motels, hospitals, sanitariums, manufacturing facilities, nursing homes, prisons, private and public schools, car washes, truck washes or other establishments where FOG, grit, silt or clay may be generated for which an application for a building permit is submitted after August 31, 2006, shall be required to design, install, operate and maintain an interceptor complying with the ~~City of Houston~~ Plumbing Code and install a sample well to allow access for inspection and sampling by the health officer.

**57. Amend Section 47-604(b) to read as follows:**

(b) At the time a stop work order is issued, the person performing the work and the permit holder shall be given notice of a right to a hearing on the matter pursuant to ~~section 116.2~~ Section 117.2 of the *Building Code* for permits authorized by that code or pursuant to section 47-608 of this Code for all other construction permits. Upon request, such a hearing shall be held within three business days unless the permit holder or person who was performing the work requests an extension of time. Any stop work order that has been issued shall remain in effect pending any hearing that has been requested unless the stop work order is withdrawn by the building official or the city engineer.

**58. Amend Section 47-613(d) to read as follows:**

(d) If the authorized city official determines that a reinspection is necessary to ascertain that the conditions responsible for a violation no longer exist, the operator shall be assessed the reinspection fee established in ~~s~~ Section 118.1.5 of the *Building Code* in conjunction with that reinspection, and a hold will be placed on all permits and inspections on the site.